



# California Regulatory Notice Register

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

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## PROPOSED ACTION ON REGULATIONS

*Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.*

### TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, pursuant to the authority vested in it by Sections 82011, 87303 and 87304 of the Government Code to review proposed conflict of interest codes, will review the proposed/amended conflict of interest codes of the following:

#### CONFLICT OF INTEREST CODES

#### AMENDMENT

##### MULTI-COUNTY:

Sonoma County Community College District  
California Education Legal Authority  
State Center Community College District

A written comment period has been established commencing on **May 30, 2003** and closing on **July 14, 2003**. Written comments should be directed to the Fair Political Practices Commission, Attention Cynthia A. Jones, 428 J Street, Suite 620, Sacramento, California 95814.

At the end of the 45-day comment period, the proposed conflict of interest code(s) will be submitted to the Commission's Executive Director for his review, unless any interested person or his or her duly authorized requests, no later than 15 days prior to the close of the written comment period, a public hearing before the full Commission. If a public hearing is requested, the proposed code(s) will be submitted to the Commission for review.

The Executive Director or the Commission will review the above-referenced conflict of interest code(s), proposed pursuant to Government Code Section 87300, which designate, pursuant to Government Code Section 87302, employees who must disclose certain investments, interests in real property and income.

The Executive Director or the Commission, upon his or its own motion or at the request of any interested person, will approve, or revise and approve, or return the proposed code(s) to the agency for revision and re-submission within 60 days without further notice.

Any interested person may present statements, arguments or comments, in writing to the Executive Director of the Commission, relative to review of the proposed conflict of interest code(s). Any written comments must be received no later than **July 14, 2003**. If a public hearing is to be held, oral comments may be presented to the Commission at the hearing.

#### COST TO LOCAL AGENCIES

There shall be no reimbursement for any new or increased costs to local government which may result from compliance with these codes because these are not new programs mandated on local agencies by the codes since the requirements described herein were mandated by the Political Reform Act of 1974. Therefore, they are not "costs mandated by the state" as defined in Government Code Section 17514.

#### EFFECT ON HOUSING COSTS AND BUSINESSES

Compliance with the codes has no potential effect on housing costs or on private persons, businesses or small businesses.

#### AUTHORITY

Government Code Sections 82011, 87303 and 87304 provide that the Fair Political Practices Commission as the code reviewing body for the above conflict of interest codes shall approve codes as submitted, revise the proposed code and approve it as revised, or return the proposed code for revision and re-submission.

#### REFERENCE

Government Code Sections 87300 and 87306 provide that agencies shall adopt and promulgate conflict of interest codes pursuant to the Political Reform Act and amend their codes when change is necessitated by changed circumstances.

#### CONTACT

Any inquiries concerning the proposed conflict of interest code(s) should be made to Cynthia A. Jones, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

#### AVAILABILITY OF PROPOSED CONFLICT OF INTEREST CODES

Copies of the proposed conflict of interest codes may be obtained from the Commission offices or the respective agency. Requests for copies from the Commission should be made to Cynthia A. Jones, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, California 95814, telephone (916) 322-5660.

### **TITLE 3. DEPARTMENT OF FOOD AND AGRICULTURE**

**NOTICE IS HEREBY GIVEN** that the Department of Food and Agriculture proposes to amend Sections 1380.19 (b), (q), (r), and (t), 1402.12, 1446.7, 1454.14 and 1462.15 of the regulations in Title 3 of the California Code of Regulations pertaining to standard containers for apricots, nectarines, peaches, and plums and fresh prunes (hereinafter referred to as plums).

Notice is also given of a written public comment period. Any interested person may present statements or arguments in writing relevant to the proposed regulation until 5:00 p.m. on July 18, 2003. Please refer to the contact section of this notice for the contact persons and address information when submitting comments.

A public hearing is not scheduled but will be if any interested person, or his or her duly authorized representative, submits a written request for public hearing to the Department no later than 15 days prior to the close of the written comment period. Following the public hearing (if one is requested) or following the written comment period (if no public hearing is requested), the Department of Food and Agriculture, at its own motion or at the instance of any interested person, may adopt the proposal substantially as set forth above without further notice.

#### **INFORMATIVE DIGEST/PLAIN ENGLISH OVERVIEW**

Section 1380.19, subsections (b), (q), (r) and (t) describes the dimensions of existing standard containers for apricots, nectarines, peaches, and plums, respectively.

Sections 1402.12, 1446.7, 1454.14 and 1462.15 provide that apricots, nectarines, peaches and plums, respectively, shall be in one of several specified standard containers.

This proposal would amend the above sections by increasing the internal depth of existing container 35 specifically for nectarines, peaches and plums, and adopting new standard container 36 for apricots, nectarines, peaches, and plums having dimensions in depth, width, and length as specified. In addition, editorial amendments will be made to the above sections for consistency within the regulations and to correct citations of authority.

#### **FISCAL IMPACT STATEMENTS**

The Department has initially determined that these proposed regulations would have no effect on savings or increased costs to any state agency, no costs under "Part 7 (commencing with Section 17500) of Division 4" of the Government Code to local agencies or school districts requiring reimbursement, no other nondiscretionary costs or savings imposed on local

agencies, and no costs or savings in federal funding to the State will result from these proposed regulations. The Department determined that these proposed regulations do not impose a mandate on local agencies or school districts.

#### **EFFECT ON SMALL BUSINESS**

The Department has initially determined that these proposed changes in the regulations would result in no added costs to small businesses affected by these proposed changes and would have a positive effect on such businesses. This is based on the fact that the proposal offers a new standard container and more flexibility of an existing container for shipping of apricots, nectarines, peaches, and plums. The proposed amendments meet the needs of the affected commodity groups without requiring change on the part of industry.

#### **EFFECT ON HOUSING COSTS**

The Department has initially determined that the amendments of the proposed regulation would have no effect on housing costs.

#### **SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

The Department has initially determined that these proposed changes would have no statewide adverse economic impact directly on businesses, including the ability for California businesses to compete with businesses in other states.

#### **ASSESSMENT STATEMENT**

The Department has initially determined that the proposed changes in the regulations would not affect the creation or elimination of jobs in California and would neither create nor eliminate or expand existing businesses in California.

#### **COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESS**

The Department is not aware of any cost impact that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### **ALTERNATIVES**

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which these regulations are proposed, or would be as effective and less burdensome to affected private persons than the proposed regulations.



#### AUTHORITY AND REFERENCE

Notice is hereby given that the Department of Food and Agriculture, pursuant to the authority vested by Sections 407 and 42682 of the Food and Agricultural Code, and to implement, interpret, and make specific Section 42941 of the Food and Agricultural Code, proposes to amend regulations in Title 3 of the California Code of Regulations.

#### CONTACT

Inquiries concerning the proposed administrative action may be directed to Sonja Dame or Gary Manning. Inquiries pertaining to the substance of the proposed regulation may be directed to Gary Manning. The contact persons may be reached at the Department of Food and Agriculture, Fruit, Vegetable, and Egg Quality Control Branch, 1220 N Street, Sacramento, CA 95814, (916) 445-2180, fax (916) 445-2427. Written comments may also be submitted via e-mail to sdame@cdfa.ca.gov.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

A complete copy of existing regulations, the proposed changes, and the Initial Statement of Reasons may be obtained on request from the Department of Food and Agriculture. These documents are available on our website at [www.cdfa.ca.gov/cdfa/regs](http://www.cdfa.ca.gov/cdfa/regs).

In addition, all information, including reports, documentation, and other materials (rulemaking file) related to the proposed action is available upon request from the agency contact persons named in the notice. The Final Statement of Reasons, when available, may also be obtained from the agency contact persons named in the notice. The text of the proposed regulations with any sufficiently related changes clearly indicated will be made available for 15 days prior to adoption.

### TITLE 4. CALIFORNIA HORSE RACING BOARD

#### NOTICE OF PROPOSAL TO ADD ARTICLE 28 BACKSTRETCH WORKER HOUSING AND AMEND RULE 1928, FIRE REGULATIONS

The California Horse Racing Board (Board) proposes to adopt the regulations described below after considering all comments, objections or recommendations regarding the proposed action.

#### PROPOSED REGULATORY ACTION

The Board proposes to adopt Article 28, Backstretch Worker Housing, of the California Code of Regulations (CCR), Title 4, Division 4. The proposed article would add Rules 2100, General Provisions; 2101, Definitions; 2102, Backstretch Worker Housing

Inspection Required; 2103, Habitable Rooms; 2104, Sanitation Facilities; and 2105, Pest Control. In addition, the Board proposes to amend Rule 1928, Fire Regulations, of the CCR, Title 4, Division 4.

#### PUBLIC HEARING

The Board will hold a public hearing at **10:00 a.m., Thursday, July 24, 2003**, or as soon after that as business before the Board will permit, at the **Del Mar Simulcast Facility, 2260 Jimmy Durante Boulevard, Del Mar, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing.

#### WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on July 14, 2003**. All comments must be received by that time at the Board; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn, Regulations Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone (916) 263-6397  
Fax: (916) 263-6042  
E-mail: [HaroldA@chrb.ca.gov](mailto:HaroldA@chrb.ca.gov)

#### AUTHORITY AND REFERENCE

Rules 2100 and 2101: Authority Cited: Sections 19440 and 19481.5(b), Business and Professions (B&P) Code. Reference: Section 19481.5 B&P Code and Section 17920.3, Health and Safety (H&S) Code. B&P Code Sections 19440 and 19481.5(b) authorize the Board to adopt the proposed regulation which would implement, interpret or make specific Section 19481.5 of the B&P Code and Section 17920.3 of the H&S Code.

Rules 2102, 2103, 2104 and 2105: Authority Cited: Sections 19440 and 19481.5(b), B&P Code. Reference: Section 19481.5, B&P Code. B&P Code Sections 19440 and 19481.5(b) authorize the Board to adopt the proposed regulation, which would implement, interpret or make specific Section 19481.5 of the B&P Code.

Rule 1928: Authority Cited: Section 19440 B&P Code. Reference Sections 19481(a) and 19481.5(b)(1) B&P Code. B&P Code Section 19440 authorizes the Board to adopt the proposed regulation which would implement, interpret or make specific Sections 19481(a) and 19481(b)(1) of the B&P Code.

INFORMATIVE DIGEST/POLICY  
STATEMENT OVERVIEW

Assembly Bill (AB) 471, Chapter 198, Statutes of 2001, amended B&P Code Section 19481.5 to require that the Board establish standards governing backstretch worker housing at licensed racetracks. At the April 2002 Regular Board Meeting the Board adopted emergency regulations, which were effective May 7, 2002. The Board now proposes to adopt permanent regulations governing backstretch worker housing.

Pursuant to AB 471, Article 28, Backstretch Worker Housing, adds six regulations regarding backstretch worker housing to the Board's rules and regulations. Rule 2100, General Provisions, states nothing in Article 28 shall require that associations or racing fairs provide housing for backstretch workers. The Board is concerned with the welfare of its licensees, however, it realizes racing associations are not obligated to provide worker housing. Rule 2100 further provides that if such housing is made available, it must be maintained in accordance with the provisions of Article 28.

Rule 2101, Definitions, provides definitions of terms used in Article 28. To have access to, or work within the restricted area of the inclosure, one must be licensed by the Board. However, not all licensees are considered backstretch workers, or are provided housing on the backstretch. To avoid confusion regarding which licensees are backstretch workers, Subsection 2101(a) specifies the class of licensees the housing regulations are meant to address. Not all backstretch workers live on the backstretch. Many live in private accommodations over which the Board has no jurisdiction. In addition, some associations provide space for miscellaneous employees and other participants in the race meeting to park privately owned mobile homes or trailers. While such spaces are not within the inclosure, there may be confusion regarding whether they or other private accommodations would fall under the requirements of Article 28. To avoid such confusion, Subsection 2101(b) provides a definition of backstretch worker housing. Subsections 2101(c) through 2101(d)(13) define the various conditions that may be associated with backstretch worker housing.

Rule 2102, Backstretch Worker Housing Inspection Required, sets the requirements for backstretch worker housing inspections. AB 471 provides various time frames and conditions under which a racing association or racing fair is required to be inspected. However, the Board was conducting inspections of backstretch worker housing prior to AB 417. Subsection 2102(a) reflects current Board practice. Associations and racing fairs that provide backstretch worker housing are required to have such housing inspected by a designated representative of the Board, or a local

housing authority with jurisdiction at least annually. Subsection 2102(a) is set to expire December 31, 2003. In accordance with AB 471, a subsequent Subsection 2102(a) becomes operative on January 1, 2004. The subsection provides that a designated representative of the Board will inspect backstretch worker housing with assistance from a local housing authority with jurisdiction, or the California Department of Housing and Community Development. Such inspections shall be conducted at least annually.

Subsection 2102(b) provides that racing fairs with race meetings of 19 days or less will comply with backstretch worker housing inspection requirements under B&P Code Section 19481.5(b)(3), which states compliance by such facilities is contingent upon funding in the 2002-03 Budget Act.

Subsection 2102(c) states that no applicant association may be licensed to conduct a horse racing meeting unless its backstretch worker housing has been found in compliance with the standards established in Article 28. In accordance with AB 471, and to give such associations time to comply with the Board's regulations, the subsection becomes operative January 1, 2004.

The Board is currently absorbing the costs associated with the inspection of backstretch worker housing. AB 471 provides that the Board may assess a reasonable fee to defray the costs of such inspections. Subsection 2102(d) states that the Board shall be reimbursed by the association or racing fair for the costs incurred to conduct backstretch worker housing inspections. The subsection becomes effective January 1, 2004—when such inspections become mandatory under Subsections 2102(a) and 2102(c).

Rule 2103, Habitable Rooms, provides the basic conditions that must be present for such spaces to pass an inspection. In drafting Rule 2103 the Board took into consideration local housing ordinances in the jurisdictions where associations and racing fairs are located as well as state housing requirements. Subsection 2103(a) requires a habitable room to provide natural light by means of at least one exterior window. Backstretch worker habitable rooms currently have such windows. If the windows can be opened, they must be provided with screening in a tight fitting frame to reduce the possibility of infestation by insects and other vermin. Subsection 2103(a) also requires that habitable rooms have natural ventilation or a mechanical ventilation system. This will ensure a means of providing fresh air for backstretch worker housing occupants.

Subsection 2103(b) requires that exterior doors be tight fitting and outfitted with door sweeps. Tight fitting doors provide security, protect against the outside elements and keep vermin out of backstretch

worker housing. Door sweeps are fitted on the bottom of doors and protect against the elements, as well as vermin.

The Board believes that backstretch worker housing must be safe, clean and comfortable. Subsection 2103(c) provides that interior walls, ceiling and floors of habitable rooms may not be damaged or cause exposure to outside elements or exposed earth. This will help to ensure that backstretch workers who reside within the inclosure are provided housing that reflects the worth of their contribution to the industry.

Subsection 2103(d) sets the minimum requirements for electrical components in habitable rooms. Habitable rooms must have at least one electric light to provide a source of lighting at night, and to supplement the required natural light. Additionally, such rooms will be provided with switches and outlets to provide a source of electricity for the occupant's use. Electrical components must be installed to state or local building codes and, for the health and safety of the occupants, maintained in a manner that ensures their safety.

The Board has always been concerned with fire safety in and around the inclosure. Under Board Rule 1927, Fire Prevention, associations are currently required to provide proof of fire safety inspection and clearance prior to the commencement of a meeting. The Board's concern for fire safety extends to backstretch worker housing. Subsection 2103(e) states habitable rooms shall be equipped with battery operated smoke detectors in working order, or any other approved fire alarm system as provided under Rule 1927. In addition, the association must post an emergency evacuation plan as required under Rule 1928, Fire Regulations.

Subsection 2103(f) states the minimum dimensions of a habitable room. Habitable rooms currently provided by associations are, in general more generous, however, should an association wish to provide additional rooms, or bring in temporary housing, the space requirements are in place as guidelines.

Rule 2104, Sanitation Facilities, provides guidelines for backstretch worker sanitation facilities. The rule requires that sanitation facilities be maintained separately for each sex. The Board wishes to provide facilities that preserve the personal dignity of backstretch workers, and help guarantee the safety of female backstretch workers. For the purpose of cleanliness and safety, Rule 2104 requires that sanitation facilities be lighted and ventilated to the outside atmosphere. Lighted sanitation facilities are essential as backstretch workers have long hours, and often are up before dawn, or they may work late into the evening where night racing is held. Venting sanitation facilities to the outside atmosphere helps reduce noxious odors and reduces dampness. Under

Rule 2104, all sanitation facilities, the fixtures, equipment, and plumbing therein must be maintained in a state of working order and free from dirt, filth and corrosion. This will help ensure the health and safety of backstretch workers and provide a clean and comfortable environment.

Due to the nature of the horse racing industry, humans and equines work and live in close proximity. This may cause backstretch worker housing to be subject to various insects, rodents and other vermin. Currently, associations and racing fairs regularly remove from their grounds materials that may harbor or contribute to the breeding of pests, and employ other pest control methods. Rule 2105, Pest Control, requires associations and racing fairs to control the breeding or harboring of rodents flies, cockroaches, mosquitoes and other vermin in and around backstretch worker housing. On a daily basis associations must remove materials that would attract or contribute to the breeding of pests. In addition they must conduct a program of spraying or baiting for insects or rodents. Other methods of control may be employed at the association's discretion.

The Board is committed to safety in all aspects of horse racing. Many associations have wooden stable facilities, and hay and straw are commonly used for bedding and feed. This poses a safety threat to equine and humans alike. The amendment to Rule 1928, Fire Regulations, requires that associations post fire regulations and emergency evacuation plans in all backstretch worker housing areas. The emergency evacuation plans must state the nearest exit in case of fire or other emergencies. Many backstretch workers use Spanish as a first language, so the amendment to Rule 1928 requires that fire regulations and emergency evacuation plans must be posted in Spanish as well as English.

#### DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed on local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed Rules will not have a significant statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states.

Cost impacts on representative private persons or businesses: The Board is not aware of any cost impacts



that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed regulations will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to adopt Article 28 and amend Rule 1928 does not affect small businesses because horse racing associations in California are not classified as small businesses under Government Code Section 11342.610. The Article concerns conditions within backstretch worker housing. Rule 1928 states certain fire regulations.

#### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

#### **CONTACT PERSONS**

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulations Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone: (916) 263-6397  
E-mail: [harolda@chrb.ca.gov](mailto:harolda@chrb.ca.gov)

If the person named above is not available, interested parties may contact:

Pat Noble, Regulations Analyst  
Telephone: (916) 263-6033  
Jacqueline Wagner, Manager  
Policy and Regulation Unit  
Telephone: (916) 263-6041

#### **AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION**

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternate contact persons at the address, phone numbers, or e-mail address listed above.

#### **AVAILABILITY OF MODIFIED TEXT**

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed texts, the modified texts—with changes clearly marked—shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulations. Requests for copies of any modified regulations should be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### **AVAILABILITY OF FINAL STATEMENT OF REASONS**

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulations in their current or in a modified form, should be sent to the attention of Harold Coburn at the address stated above.

#### **BOARD WEB ACCESS**

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation and the initial statement of reasons. The Board's web site address is [www.chrb.ca.gov](http://www.chrb.ca.gov).

### **TITLE 4. CALIFORNIA HORSE RACING BOARD**

#### **NOTICE OF PROPOSAL TO AMEND RULE 1979.1 SUPERFECTA**

The California Horse Racing Board (Board) proposes to amend the regulation described below after considering all comments, objections or recommendations regarding the proposed action.



### PROPOSED REGULATORY ACTION

The Board proposes to amend Rule 1979.1 of the California Code of Regulations, Title 4, Division 4. The proposed amendment deletes the requirement that a Superfecta pool be refunded if less than five wagering interests finish the race.

### PUBLIC HEARING

The Board will hold a public hearing starting at **10:00 a.m., Thursday, July 24, 2003**, or as soon after that as business before the Board will permit, at the **Del Mar Simulcast Facility, 2260 Jimmy Durante Boulevard, Del Mar, California**. At the hearing, any person may present statements or arguments orally or in writing about the proposed action described in the informative digest. It is requested, but not required, that persons making oral comments at the hearing submit a written copy of their testimony at the hearing.

### WRITTEN COMMENT PERIOD

Any interested person, or their authorized representative, may submit written comments about the proposed regulatory action to the Board. The written comment period closes at **5:00 p.m. on July 14, 2003**. All comments must be received by that time at the Board; however, written comments may still be submitted at the public hearing. Submit comments to:

Harold Coburn  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA95825  
Telephone (916) 263-6397  
Fax: (916) 263-6042  
E-mail: [HaroldA@chrb.ca.gov](mailto:HaroldA@chrb.ca.gov)

### AUTHORITY AND REFERENCE

Authority cited: Sections 19440 and 19590, Business and Professions (B&P) Code. Reference: Section 19590, B&P Code.

B&P Code Sections 19440 and 19590 authorize the Board to adopt the proposed regulation, which would implement, interpret, or make specific Section 19590, B&P Code.

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Superfecta is a separate pari-mutuel pool established on a single race wherein amounts are wagered on horses to finish first, second, third and fourth in that exact order. No Superfecta pool may be established for a race with less than eight wagering interests scheduled to start when the Superfecta pool opens for wagering in California. If less than five wagering interests finish the race, the entire Superfecta pool is refunded.

There are occasions when fewer than the eight wagering interests required to establish a Superfecta pool finish the race. If five or more horses finish the pool is paid under the provisions of the regulation, but under subsection 1979.1(f), if less than five horses finish, the pool is refunded. The provision that requires at least five finishers has, on occasion, resulted in confusion and disappointment amongst horse racing fans. In cases where only four horses finish the race, holders of tickets correctly selecting the four finishers may think they have won the wager, but find instead that the wager has been canceled. The disappointment expressed by fans under these circumstances has caused the industry to request Rule 1979.1 be amended to delete the requirement that at least five wagering interests finish the race.

### DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17500 through 17630: none.

Other non-discretionary cost or savings imposed upon local agencies: none.

Cost or savings in federal funding to the state: none.

The Board has made an initial determination that the proposed amendment to Rule 1979.1 will not have a significant statewide adverse economic impact directly affecting business including the ability of California business to compete with businesses in other states.

Cost impacts on representative private persons or businesses: The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Significant effect on housing costs: none.

The adoption of the proposed amendment to Rule 1979.1 will not (1) create or eliminate jobs within California (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Effect on small businesses: none. The proposal to amend Rule 1979.1 does not affect small businesses because horse racing associations are not classified as small businesses under Government Code Section 11342.610. The rule sets forth the provisions for the establishment and conduct of a Superfecta pari-mutuel pool.

### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative it considered, or

that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the scheduled hearing or during the written comment period.

#### **CONTACT PERSON**

Inquiries concerning the substance of the proposed action and requests for copies of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, and other information upon which the rulemaking is based should be directed to:

Harold Coburn, Regulations Analyst  
California Horse Racing Board  
1010 Hurley Way, Suite 300  
Sacramento, CA 95825  
Telephone (916) 263-6397  
E-mail: [HaroldA@chrb.ca.gov](mailto:HaroldA@chrb.ca.gov)

If the person named above is not available, interested parties may contact:

Pat Noble, Regulations Analyst  
Telephone (916) 263-6033  
Jacqueline Wagner, Manager  
Policy and Regulations Unit  
Telephone (916) 263-6041

#### **AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATION**

The Board will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the initial statement of reasons. Copies may be obtained by contacting Harold Coburn, or the alternate contact persons at the address, phone numbers, or e-mail address listed above.

#### **AVAILABILITY OF MODIFIED TEXT**

After holding a hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text—with changes clearly marked—shall be made available to the public for at least 15 days prior to the date on which the Board adopts the regulation. Requests for copies of any modified regulation should

be sent to the attention of Harold Coburn at the address stated above. The Board will accept written comments on the modified regulation for 15 days after the date on which it is made available.

#### **AVAILABILITY OF FINAL STATEMENT OF REASONS**

Requests for copies of the final statement of reasons, which will be available after the Board has adopted the proposed regulation in its current or in a modified form, should be sent to the attention of Harold Coburn at the address stated above.

#### **BOARD WEB ACCESS**

The Board will have the entire rulemaking file available for inspection throughout the rulemaking process at its web site. The rulemaking file consists of the notice, the proposed text of the regulation, and the initial statement of reasons. The Board's web site address is [www.chrb.ca.gov](http://www.chrb.ca.gov).

### **TITLE 8. OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

#### **NOTICE OF PUBLIC MEETING/PUBLIC HEARING/BUSINESS MEETING OF THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD AND NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS**

Pursuant to Government Code Section 11346.4 and the provisions of Labor Code Sections 142.1, 142.2, 142.3, 142.4, and 144.6, the Occupational Safety and Health Standards Board of the State of California has set the time and place for a Public Meeting, Public Hearing, and Business Meeting:

**PUBLIC MEETING:** On **July 17, 2003** at 10:00 a.m.  
in the Auditorium of the State  
Building, 320 West 4<sup>th</sup> Street,  
Los Angeles, California

At the Public Meeting, the Board will make time available to receive comments or proposals from interested persons on any item concerning occupational safety and health.

**PUBLIC HEARING:** On **July 17, 2003** following the  
Public Meeting in the Auditorium of the State Building,  
320 West 4<sup>th</sup> Street, Los Angeles,  
California

At the Public Hearing, the Board will consider the public testimony on the proposed changes noticed below to occupational safety and health regulations in Title 8 of the California Code of Regulations.

BUSINESS MEETING: On **July 17, 2003** following the Public Hearing in the Auditorium of the State Building, 320 West 4<sup>th</sup> Street, Los Angeles, California

At the Business Meeting, the Board will conduct its monthly business.

The meeting facilities and restrooms are accessible to the physically disabled. Requests for accommodations for the disabled (assistive listening device, sign language interpreters, etc.) should be made to the Board office no later than 10 working days prior to the day of the meeting. If Paratransit services are needed, please contact the Paratransit office nearest you.

**NOTICE OF PROPOSED CHANGES TO TITLE 8 OF THE CALIFORNIA CODE OF REGULATIONS BY THE OCCUPATIONAL SAFETY AND HEALTH STANDARDS BOARD**

Notice is hereby given pursuant to Government Code Section 11346.4 and Labor Code Sections 142.1, 142.4 and 144.5, that the Occupational Safety and Health Standards Board pursuant to the authority granted by Labor Code Section 142.3, and to implement Labor Code Section 142.3, will consider the following proposed revisions to Title 8, General Industry Safety Orders of the California Code of Regulations, as indicated below, at its Public Hearing on July 17, 2003.

1. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**  
Chapter 4, Subchapter 7, Article 12  
Section 3427(a)  
**Tree Work—Safe Work Procedures**
2. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**  
Chapter 4, Subchapter 7, Article 96  
Section 4968  
**Tower Crane Pre-Deceleration Devices**

A description of the proposed changes are as follows:

1. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**  
Chapter 4, Subchapter 7, Article 12  
Section 3427(a)  
**Tree Work—Safe Work Procedures**

**INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW**

This rulemaking action was initiated as a result of Standards Board staff review and evaluation of the requirements contained in the General Industry Safety Orders (GISO), Section 3427 “Safe Work Proce-

dures” for tree work, maintenance or removal. The proposed amendments seek to require that visual inspection of trees prior to entry are performed by a qualified person and that the safest method of entry into the tree is determined and used.

**Section 3427. Safe Work Procedures.**  
**Subsection (a)(1)**

Section 3427 is located in GISO, Article 12, “Tree Work, Maintenance or Removal.” Existing Section 3427 provides regulations for safe working procedures. Section 3427(a) is entitled “Climbing” and subsection (a)(1) requires that trees are visually inspected to determine the safest method of entry into the tree as described in the section. An editorial amendment is proposed to add the word “access” to the title of subsection (a) so that it reads “Climbing and Access.” This amendment will have the effect of clarifying the provisions of this subsection.

Subsection (a)(1) requires a visual inspection of the tree. However, the regulation does not identify who must perform the inspection. An amendment is proposed to identify that a “qualified person” must visually inspect the tree. The proposed amendment has the effect of ensuring that a person designated by the employer with the appropriate training and experience performs the visual inspection. A proposed amendment is also made having the effect of ensuring that the safest method of entry into the tree is not only determined, but is used.

As mentioned above, subsection (a)(1) requires that trees be visually inspected to determine the safest method of entry into the tree as described in the section. However, subsection (a) only describes provisions for climbing trees, which may not always be the safest or best method of entry into the tree. For example, a tree with dead or decaying sections or limbs with energized electrical lines running through or near the tree may be entered/accessed for the necessary work by a safer means than climbing, such as the use of an aerial device. Therefore, in subsection (a)(1) the phrase “as described in this section” is proposed for deletion having the effect of providing options for tree entry/access by means other than climbing.

A non-substantial editorial revision for clarity identifies the second sentence in subsection (a)(1) as subsection (a)(2) and the remaining regulations in subsection (a) are appropriately renumbered in sequential order as subsections (a)(3) through (a)(6).

**COST ESTIMATES OF PROPOSED ACTION**  
**Costs or Savings to State Agencies**

No costs or savings to state agencies will result as a consequence of the proposed action.



**Impact on Housing Costs**

The Board has made an initial determination that this proposal will not significantly affect housing costs.

**Impact on Businesses**

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. Also, see comments under the heading above titled "Specific Technology or Equipment."

**Cost Impact on Private Persons or Businesses**

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

**Costs or Savings in Federal Funding to the State**

The proposal will not result in costs or savings in federal funding to the state.

**Costs or Savings to Local Agencies or School Districts Required to be Reimbursed**

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

**Other Nondiscretionary Costs or Savings Imposed on Local Agencies**

This proposal does not impose nondiscretionary costs or savings on local agencies.

**DETERMINATION OF MANDATE**

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, this regulation does not constitute a "new program or higher level of service of an existing program with the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

The proposed regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure

the safety and health of their own employees only. Moreover, the proposed regulation does not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

The proposed regulation does not impose unique requirements on local governments. All employers—state, local and private—will be required to comply with the prescribed standards.

**EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendments may affect small businesses.

**ASSESSMENT**

The adoption of the proposed amendments to these regulations will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

**REASONABLE ALTERNATIVES CONSIDERED**

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

A description of the proposed changes are as follows:

2. **TITLE 8: GENERAL INDUSTRY SAFETY ORDERS**  
Chapter 4, Subchapter 7, Article 96  
Section 4968  
**Tower Crane Pre-Deceleration Devices**

**INFORMATIVE DIGEST OF PROPOSED ACTION/POLICY STATEMENT OVERVIEW**

The Occupational Safety and Health Standards Board (Board) initiates this rulemaking as the result of granting OSHSB Petition File No. 441, submitted by Mr. Bradley D. Closson, representing the North American Crane Bureau, at the July 18, 2002 Public Hearing in San Diego, California.

Existing Title 8, General Industry Safety Order (GISO) Section 4968 addresses specific safety device requirements for tower cranes, excluding mobile tower cranes. Subsection (d)(1) requires all tower cranes to be equipped with a safety device (also referred to as a limit device) that provides "predeceleration" before the top and bottom positions of the crane hook are reached.



The Petitioner requested changing the term “predeceleration” to “deceleration” because the term “predeceleration” is confusing and is not used in the federal tower crane regulations, nor in the American Society of Mechanical Engineers (ASME) B30.3 national consensus standard. Additionally, the Petitioner requested eliminating the requirement to have a limit device that provides predeceleration before the bottom position of the hook is reached, arguing that the work site may have several levels that the crane unloads at. The level for which the limit device is set to provide deceleration may not be the same level where most of the loading and unloading is done. Moreover, the Petitioner emphasized that this requirement does not exist in any federal regulation or national consensus standard.

In the Board’s July 18, 2002 Petition Decision, Board staff agreed with the Petitioner that the term “predeceleration” in Section 4968(d)(1) is confusing and that replacing this word with the term “deceleration” would add clarity and consistency to the regulation. Board staff also agreed with the Petitioner’s rationale for removing the requirement for a limit device that provides deceleration before the bottom position of the hook is reached. Board staff noted that Section 4968(d)(1) is intended to prevent “shock loading” of the crane due to the abrupt stopping of a rapidly descending load. Shock loading may cause damage to tower cranes such as, damage to individual structural components, structural weakening through metal fatigue, or total structural failure of the crane. Board staff concluded that compliance with this requirement is problematic in that many construction sites have numerous crane unloading levels and deceleration limit devices to prevent shock-loading can only be set to one level; levels above the limit set would not be affected by the limit device. For example, if the deceleration device is set for the basement level of a building under construction, loading and unloading activities at any level above the basement level would not be protected from shock loading under this section. Additionally, if the deceleration limit device is set at the street level while the crane is loading and unloading at levels below the street level, the deceleration device would interfere with the normal operation of the crane by limiting the hoisting speed at the lower levels to the speed dictated by the deceleration device.

Also in the Board’s Petition Decision, the Division of Occupational Safety and Health (Division) recommended deleting the language that excludes mobile tower cranes. The Division stated that this change is necessary to make Section 4968 consistent with the recent revision to Figure 15 in Section 4885 of Article 91 whereby cranes once classified as mobile tower cranes were reclassified as mobile cranes.

#### Section 4968. Safety Devices.

Section 4968 contains safety requirements for all tower cranes (excluding mobile tower cranes) and states that they are to be equipped with a number of safety devices such as, but not limited to: audible and visual alarms, limit controls, electronic instrumentation, etc. Subsection (d)(1) requires all tower cranes to be equipped with a safety device (also referred to as a limit device) that provides “predeceleration” before the top and bottom positions of the crane hook are reached.

A revision is proposed to delete the language that excludes mobile tower cranes in order to make Section 4968 consistent with the aforementioned revision made to Figure 15 of Article 91. It is also proposed to replace the word “predeceleration” with “deceleration” so as to clarify the requirements by using common industry terminology consistent with federal requirements and national consensus language contained in ASME B30.3. And, it is proposed to remove the requirement for a safety device that provides deceleration before the bottom position of the hook is reached, which will eliminate the requirement for a safety device that is impractical and that interferes with the normal operation of the crane.

The proposed amendments will have the effect of making Section 4968 consistent with national consensus standard language contained in ASME B30.3 and the recent reclassification of cranes depicted in Figure 15 in Section 4885 of Article 91.

#### **COST ESTIMATES OF PROPOSED ACTION Costs or Savings to State Agencies**

No costs or savings to state agencies will result as a consequence of the proposed action.

#### **Impact on Housing Costs**

The Board has made an initial determination that this proposal will not significantly affect housing costs.

#### **Impact on Businesses**

The Board has made an initial determination that this proposal will not result in a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. The proposed amendment clarifies the regulation to eliminate confusion about the definition and regulatory requirements for trolley suspension hoists.

#### **Cost Impact on Private Persons or Businesses**

The Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### **Costs or Savings in Federal Funding to the State**

The proposal will not result in costs or savings in federal funding to the state.

**Costs or Savings to Local Agencies or School Districts Required to be Reimbursed**

No costs to local agencies or school districts are required to be reimbursed. See explanation under "Determination of Mandate."

**Other Nondiscretionary Costs or Savings Imposed on Local Agencies**

This proposal does not impose nondiscretionary costs or savings on local agencies.

**DETERMINATION OF MANDATE**

The Occupational Safety and Health Standards Board has determined that the proposed regulation does not impose a local mandate. Therefore, reimbursement by the state is not required pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code because the proposed amendment will not require local agencies or school districts to incur additional costs in complying with the proposal. Furthermore, the regulation does not constitute a "new program or higher level of service of an existing program within the meaning of Section 6 of Article XIII B of the California Constitution."

The California Supreme Court has established that a "program" within the meaning of Section 6 of Article XIII B of the California Constitution is one which carries out the governmental function of providing services to the public, or which, to implement a state policy, imposes unique requirements on local governments and does not apply generally to all residents and entities in the state. (*County of Los Angeles v. State of California* (1987) 43 Cal.3d 46.)

The proposed regulation does not require local agencies to carry out the governmental function of providing services to the public. Rather, the regulation requires local agencies to take certain steps to ensure the safety and health of their own employees only. Moreover, the proposed regulation does not in any way require local agencies to administer the California Occupational Safety and Health program. (See *City of Anaheim v. State of California* (1987) 189 Cal.App.3d 1478.)

The proposed regulation does not impose unique requirements on local governments. All employers—state, local and private—will be required to comply with the prescribed standard.

**EFFECT ON SMALL BUSINESSES**

The Board has determined that the proposed amendments may affect small businesses.

**ASSESSMENT**

The adoption of the proposed amendments to this regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

**REASONABLE ALTERNATIVES CONSIDERED**

Our Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The above proposals do not contain building standards as defined by Health and Safety Code Section 18909.

A copy of the proposed changes in STRIKEOUT/UNDERLINE format is available upon request made to the Occupational Safety and Health Standard Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833, (916) 274-5721. Copies will also be available at the Public Hearing.

An INITIAL STATEMENT OF REASONS containing a statement of the purpose and factual basis for the proposed actions, identification of the technical documents relied upon, and a description of any identified alternatives has been prepared and is available upon request from the Standards Board's Office.

Notice is also given that any interested person may present statements or arguments orally or in writing at the hearing on the proposed changes under consideration. It is requested, but not required, that written comments be submitted so that they are received no later than July 11, 2003. The official record of the rulemaking proceedings will be closed at the conclusion of the public hearing and written comments received after 5:00 p.m. on July 17, 2003 will not be considered by the Board unless the Board announces an extension of time in which to submit written comments. Written comments should be mailed to the address provided below or submitted by fax at (916) 274-5743 or e-mailed at [oshsb@hq.dir.ca.gov](mailto:oshsb@hq.dir.ca.gov). The Occupational Safety and Health Standards Board may thereafter adopt the above proposal substantially as set forth without further notice.

The Occupational Safety and Health Standards Board's rulemaking file on the proposed actions including all the information upon which the proposals are based are open to public inspection Monday through Friday, from 8:30 a.m. to 4:30 p.m. at the Standards Board's Office, 2520 Venture Oaks Way, Suite 350, Sacramento, CA 95833.

The full text of proposed changes, including any changes or modifications that may be made as a result of the public hearing, shall be available from the Executive Officer 15 days prior to the date on which the Standards Board adopts the proposed changes.

Inquiries concerning either the proposed administrative action or the substance of the proposed changes

may be directed to Marley Hart, Acting Executive Officer, or Michael Manieri, Principal Safety Engineer, at (916) 274-5721.

You can access the Board's notice and other materials associated with this proposal on the Standards Board's homepage/website address which is <http://www.dir.ca.gov/oshsb>. Once the Final Statement of Reasons is prepared, it may be obtained by accessing the Board's website or by calling the telephone number listed above.

## TITLE 11. DEPARTMENT OF JUSTICE

### NOTICE OF PROPOSED RULEMAKING

The Department of Justice ("Department") proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

### PUBLIC HEARING

The Department will hold a public hearing starting at 10:00 a.m. on Tuesday, July 15, 2003, at the Department of Justice office located at 4949 Broadway, Sacramento, California. The hearing room is wheel chair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed regulatory action described in the Informative Digest. The Department requests but does not require that persons who make oral comments also submit a written copy of their testimony at the hearing.

### WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action. The written comment period closes at 5:00 p.m., on July 15, 2003. The Department will consider only comments received at the Department offices by that time. Submit written comments to:

Jeff Amador, Field Representative  
Department of Justice, Firearms Division  
P.O. Box 820200  
Sacramento, CA 94203-0200

### AUTHORITY AND REFERENCE

Pursuant to sections 12132 and 12276.1 of the Penal Code, the Department is authorized to adopt the proposed regulations that implement, interpret, or make specific sections 12125, 12126, 12127, 12128, 12129, 12130, 12131, 12131.5, 12132, 12133, and 12276.1 of the Penal Code.

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current law generally prohibits the sale of firearms that fall within the statutory definition of an "assault weapon" or an "unsafe handgun". However, the law delineates specific models that are exempt because they are used for Olympic target shooting competition. As mandated pursuant to Penal Code sections 12132(h) and 12276.1(b),(c), the proposed regulations establish a program to exempt additional models used in Olympic target shooting competition from the "assault weapon" definition provided in Penal Code section 12276.1 and/or the "unsafe handgun" provisions in Penal Code sections 12125 through 12133. The proposed regulations also specify the manner by which Olympic pistols can be recommended for exemption by the national governing body for international shooting competition in the United States, currently "USA Shooting." The proposed regulations also establish that the Department will maintain a roster of the exempted Olympic pistols.

### DISCLOSURES REGARDING THE PROPOSED ACTION

*The Department has made the following determinations:*

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or businesses: The Department is not aware of any cost impacts that a representative private person or business would necessarily incur as a result of the proposed action.

Adoption of these regulations will not (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

Small business determination: The Department has determined the proposed regulations do not affect small business. The proposed regulations establish a program to exempt pistol models used in Olympic target shooting competition from the "assault



weapon” definition provided in Penal Code section 12276.1 and/or the “unsafe handgun” provisions in Penal Code sections 12125 through 12133. The exemption will allow the Olympic pistols to be possessed, purchased, and sold in California. Because the exempted pistols are typically of interest only to Olympic target shooting enthusiasts, new dealer sales will be negligible.

#### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Department invites interested persons to present statements or arguments regarding the proposed regulations at the scheduled hearing or during the written comment period.

#### **CONTACT PERSONS**

Inquiries concerning the proposed regulatory action may be directed to:

Jeff Amador, Field Representative  
Department of Justice, Firearms Division  
P.O. Box 820200  
Sacramento, CA 94203-0200  
(916) 227-3661

The backup contact person for these inquiries is:

Stephanie Torres, Analyst  
Department of Justice, Firearms Division  
P.O. Box 820200  
Sacramento, CA 94203-0200  
(916) 227-5362

Please direct requests for copies of the text (the “express terms”) of the proposed regulations, the initial statement of reasons, the modified text of the regulations, if any, or other information upon which the rulemaking is based to Ms. Torres at the above address.

#### **AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, the initial statement of reasons, and the Economic and Fiscal Impact

Statement (STD. 399). Copies may be obtained by contacting Stephanie Torres at the address or phone number listed above.

#### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, the Department may adopt the proposed regulations substantially as described in this notice. If the Department makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of Stephanie Torres at the address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting Ms. Torres at the above address.

#### **AVAILABILITY OF DOCUMENTS ON THE INTERNET**

Copies of the Notice of Proposed Action, the Initial Statement of Reasons, and the text of the regulations in strikeout format, as well as the Final Statement of Reasons once it is completed, can be accessed through our website at <http://caag.state.ca.us/firearms/>.

### **TITLE 14. FISH AND GAME COMMISSION**

#### **NOTICE OF PROPOSED CHANGES IN REGULATIONS**

NOTICE IS HEREBY GIVEN that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 1050, 7923, 8026, 9154 and 9055 of the Fish and Game Code and to implement, interpret or make specific sections 1050, 4850, 7852.2, 7857, 7923, 8026, 9054 and 9055 of said Code, proposes to amend sections 120.7 and 190, Title 14, California Code of Regulations, relating to the sea urchin fishery and fishing activity records, respectively.

#### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Existing regulations prohibit anyone without a valid sea urchin diving permit from diving from a sea urchin vessel during commercial fishing operations.



The proposed regulatory changes would clarify that the Department may authorize non-permitted divers to dive from a sea urchin vessel for the purposes of sea urchin management or research.

Existing regulations require applicants for renewal of sea urchin diving permits to have made at least 20 landings of at least 300 pounds each in one of the two immediately preceding permit years.

The proposed regulatory changes would repeal that minimum landing requirement for permit renewal.

Existing regulations establish the deadlines for late renewal of a sea urchin diving permit.

The proposed regulatory changes would add one day to that deadline to conform to statute.

Existing regulations establish the number of new sea urchin permits to be made available when either more than or less than 300 permits are renewed by August 1 of each year, but do not specify how many are available when exactly 300 permits are renewed.

The proposed regulatory changes would clarify that when the number of renewed permits is 300 no new permits would be available.

Existing regulations provide that any person who held a valid abalone diving permit in the 1996-97 or 1997-98 license year is eligible to apply for any new sea urchin diving permits that may become available each year.

The proposed regulatory changes would repeal that provision.

Existing regulations do not specify where or when applications for any new sea urchin diving permits that may become available should be submitted.

The proposed regulatory changes would clarify when and where they shall be sent.

Existing regulations provide that any person who has possessed a sea urchin crewmember permit for the immediately two preceding permit years may apply for any new sea urchin diving permits that may become available. If there are more applicants than permits available, a drawing will be held to select the successful applicants. All applicants have an equal opportunity of being selected in the drawing.

The proposed regulatory changes would provide that any person who has possessed a crewmember permit for more than the required two years would be entered into the drawing one additional time for each year above the minimum two years that the applicant has possessed a crewmember permit, in any drawing held for new permits, up to a maximum of five entries in any drawing (for any person who has had a crewmember permit for seven or more years).

Existing regulations specify that any drawing held to issue new sea urchin diving permits will be held on the Wednesday nearest August 15 of each year.

The proposed regulatory changes would simplify that date to specify the drawing, if needed, would be held on the third Wednesday in August of each year.

Existing regulations provide that the season for red sea urchin fishing in May and September is open Monday, Tuesday, Wednesday and Thursday, except closed during the second full week; is open in June and August on Monday, Tuesday and Wednesday, except closed the second full week; and in July, north of the San Luis Obispo-Monterey county line is closed and that south of that line the season is open only on Monday and Tuesday, except closed for the second full week.

The proposed regulatory changes provide three options that would recast those open days from May to September.

All options would repeal some or all of the second full week closures in each month.

Option one would also make a uniform open season of Monday, Tuesday and Wednesday in May, June, August and September and a uniform statewide open season of Monday and Tuesday in July.

Option two would retain the existing four days per week open season in May and September and the existing three days per week open season in June and August and make a uniform statewide two days per week open season in July.

Option three would retain the existing open season in May and September in southern California (south of the Monterey-San Luis Obispo county line) while in northern California (north of the Monterey-San Luis Obispo county line) the second full week closure would be repealed and the days open for fishing would be reduced from Monday, Tuesday, Wednesday and Thursday to only Monday, Tuesday and Wednesday. In June and August the second full week closures would be repealed statewide and fishing days (Monday, Tuesday and Wednesday) would remain the same. In July the second full week closure in southern California and the full month closure in northern California would be repealed so fishing would be open statewide on Monday and Tuesday.

The Commission could adopt a single option or any part or parts of one or more of the three options in combination for the final regulations.

Existing regulations (subsection (n) of Section 120.7, Title 14, CCR) require sea urchin fishing log books to be sent to a Department office on or before the fifth day of each month. This requirement is in conflict with Section 190, Title 14, CCR that requires all fishing activity records to be submitted on or before the 10th day of the month following the month to which the records pertain.

The proposed regulatory changes would conform subsection 120.7(n) to Section 190.

Existing regulations require fishing activity records to be submitted on form DFG-120.7, October 1987.

The proposed regulatory changes would update the version of form DFG-120.7 to reflect the most recent version (DFG 120.7(5/99)), and incorporate that form by reference.

Existing regulations have several subsection numbering errors, typographic errors and a reference to the Department's former Long Beach office.

The proposed regulatory changes would correct the numbering errors and the reference to the former Long Beach office.

Section 190, Title 14, CCR contains a mailing address for the return of fishing activity records that is no longer valid.

The proposed regulatory changes would correct that mailing address.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in The Westin Long Beach, 333 E. Ocean Boulevard, Long Beach, California on Saturday, August 2, 2003 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before July 25, 2003 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than August 2, 2003 at the hearing in Long Beach, CA. E-mail comments must include the true name and mailing address of the commentor.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Sherrie Koell at the preceding address or phone number. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at [http://www.dfg.ca.gov/fg\\_comm](http://www.dfg.ca.gov/fg_comm).

#### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from the agency program staff.

#### IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. Each sea urchin diver and processor is considered a business. The proposed regulatory changes will repeal a requirement that each permittee harvest at least 6,000 pounds of sea urchins every other year to renew their permit, but will not otherwise limit their ability to harvest that amount of sea urchins. The proposed regulatory changes will provide both sea urchin divers and sea urchin processors greater flexibility in managing the harvest and sale of sea urchins during the months of May through September.

- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California: None.
- (c) Cost Impacts on a Representative Private Person or Business:  
The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- (d) Costs or Savings to State Agencies or Costs/Savings in Federal funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.
- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

#### EFFECT ON SMALL BUSINESS

It has been determined that the adoption of these regulations may affect small business.

## CONSIDERATION OF ALTERNATIVES

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

## TITLE 14. SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

### NOTICE OF PROPOSED RULEMAKING

The San Francisco Bay Conservation and Development Commission proposes to delete its existing Regulation Section 11325, which establishes a policy on ex parte communications in Commission enforcement cases, and adopt proposed Regulation Sections 10280 through 10287, which would adopt a comprehensive policy for ex parte communications that would apply to all quasi-judicial actions of the Commission. The Commission will take action of the proposal only after it considers all comments, objections, and recommendations regarding the proposed actions.

### PUBLIC HEARING

The Commission will hold a public hearing on Thursday, July 17, 2003, starting at 1 pm., at the Metro Center Auditorium, 101 8<sup>th</sup> Street, Oakland, California. The room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest. The Commission requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

### WRITTEN COMMENT PERIOD

Any person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission. The written comment period closes at **5:00 p.m. on Tuesday, July 22, 2003**. The Commission will consider only comments received by the Commission by that time. Please submit comments to;

Jonathan Smith  
Chief Counsel  
San Francisco Bay Conservation and  
Development Commission  
50 California Street, 26th Floor  
San Francisco, California 94111

## AUTHORITY AND REFERENCE

Government Code Section 66632(f) and Public Resources Code Section 29201e) authorize the Commission to implement these proposed regulations, that implement, interpret, or make more specific California Government Code Sections 66632, 66638, and 66641.5, California Public Resources Code Sections 29520, 29524, and 29601, and *Arnel Development Co. v. City of Costa Mesa* (1980) 29 Cal. 3d 511, 526; *Sommerfield v. Helmick* (1974) 13 Cal.App. 4<sup>th</sup> 315, 320; *Burrell v. City of Los Angeles* (1989) 209 Cal.App. 3d 568, 582; *Williams v. County of Los Angeles* (1978) 22 Cal. 3d 731, 736-737; *LaPrade v. Department of Water and Power* (1945) 27 Cal. 2d 47, 51-52; *Clark v. City of Hermosa Beach* (1996) 48 Cal.App. 4<sup>th</sup> 1152; *Gore v. Board of Medical Quality Assurance* (1980) 110 Cal. App. 3d 184, 192; *Stoddard v. Edelman* (1970) 4 Cal.App.3d 544, 552; *City of Fairfield v. Superior Court* (1975) 14 Cal. 3d 768; *Flagstad v. City of San Mateo* (1957) 156 Cal.App. 2d 138, 142; *Siller v. Board of Supervisors* (1962) 58 Cal. 2d 479; *Delta Rent-A-Car Systems Inc. v. City of Beverly Hills* (1969) 1 Cal.App.3d 781; *Desmond v. County of Contra Costa* (1993) 21 Cal. App. 4<sup>th</sup> 330, 339; *Safeway Stores, Inc. v. City of Burlingame* (1959) 170 Cal.App.2d 637, 647-648

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Commission proposes to repeal Commission Regulation Section 11325 (14 Cal. Code of Regulations Section 11325), which establishes the Commission's policy on ex parte communications that occur during a Commission enforcement proceeding. The Commission further proposes to adopt proposed Commission Regulation Sections 10280 through 10288, which would adopt a policy on ex parte communications that would apply to all quasi-judicial activities of the Commission, including Commission action on a pending permit application and Commission action on a pending enforcement action.

### DISCLOSURES REGARDING THE PROPOSED ACTION

The Commission has made the following initial determinations:

Mandate on local agencies and school districts: none.

Cost or savings to any state agency: none.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Sections 17500 through 17630: none.

Other nondiscretionary cost or savings imposed on local agencies: none.



Cost or savings in federal funding to the state: none.

Significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states: none.

Cost impacts on a representative private person or business: The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

The repeal of this regulation and the adoption of the new regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: none.

Small Business Determination: The Commission has determined that the proposed repeal and adoption will not affect small business. The proposed regulation will only adopt a policy that governs ex parte communications between Commission members and interested members of the public.

#### CONSIDERATION OF ALTERNATIVES

In accordance with Government Code Section 11346.5, subdivision (a)(13), the Commission must determine that no reasonable alternative that it considers or that has otherwise been identified and brought to the attention of the Commission would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The Commission invites interested persons to present statements or arguments with respect to alternatives to the proposed action at the scheduled hearing or during the written comment period.

#### CONTACT PERSONS

Inquiries concerning the proposed regulatory action should be directed to:

Jonathan Smith  
Chief Counsel  
San Francisco Bay Conservation and  
Development Commission  
50 California Street, Suite 2600  
San Francisco, California 94111  
Telephone: (415) 352-3655  
Email: [jons@bcdc.ca.gov](mailto:jons@bcdc.ca.gov)

The backup contact person for these inquiries is:

Ellen Sampson  
Staff Counsel  
San Francisco Bay Conservation and  
Development Commission  
50 California Street, Suite 2600  
San Francisco, California 94111  
Telephone: (415) 352-3610  
Email: [ellens@bcdc.ca.gov](mailto:ellens@bcdc.ca.gov)

Please direct requests for copies of the text (the "express terms") of the regulations that are proposed for repeal and adoption, the Initial Statement of Reasons, the modified text of the regulations, if any, and other information upon which the rulemaking is based to Mr. Smith at the above address.

#### AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Commission will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons, including the documents referred to in the initial statement of reasons on which the proposed changes are based. Copies may be obtained by contacting Mr. Smith at the above address or telephone listed above.

#### AVAILABILITY OF CHANGED OR MODIFIED TEXT

After holding the hearing and considering all timely and relevant comments received, the Commission may adopt the proposed changes substantially as described in this notice. If the Commission makes modifications that are sufficiently related to the originally proposed text, the Commission will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Commission adopts the regulations as revised. Please send requests for copies of any modified regulations to Mr. Smith at the address indicated above. The Commission will accept written comments on the modified regulations for 15 days after the date on which they are made available.

#### AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, copies of the final statement of reasons may be obtained by contacting Mr. Smith at the above address.

#### AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the notice of proposed action, the initial statement of reasons, and the text of the regulations in



stikeout and underlined format, as well as the final statement of reasons when it is completed, can be accessed through our website at [www.bcdc.ca.gov](http://www.bcdc.ca.gov).

## TITLE 16. ACUPUNCTURE BOARD

**NOTICE IS HEREBY GIVEN** that the Acupuncture Board is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a **hearing to be held at the Arcadia City Hall, City Council Room, 240 W. Huntington Drive, Arcadia CA, on July 14, 2003, at 9:00 a.m.** Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice must be received by the Board at its office not later than 5:00 p.m. on July 14, 2003, or must be received by the Board at the hearing.

The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

### AUTHORITY AND REFERENCE

Pursuant to the authority vested by Section 4933 of the Business and Professions Code, and to implement, interpret or make specific Sections 4925, 4938, 4939, 4940, 4941 and 4944 of the Business and Professions Code, the Board is considering changes to Division 13.7 of Title 16 of the California Code of Regulations as follows:

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

#### 1. Amend Section 1399.415

The Board proposes to amend Section 1399.415 to designate January 1, 2005, as the effective date to implement the 3,000 hour curriculum requirements, which is in compliance with Business and Professions Code Section 4939. This proposed amendment clarifies that a student who is enrolled in an approved educational program on or before December 31, 2004 shall be required to complete the curriculum in effect at the time of enrollment. Students enrolling effective January 1, 2005 shall be required to complete the 3,000 hour curriculum.

The proposed amendment will also require applicants for examination to complete their educational

training program at least thirty (30) days prior to the examination date for which they have applied.

#### 2. Amend Section 1399.416

The Board proposes to amend Section 1399.416 to require foreign trained applicants to submit their transcripts for evaluation by a foreign credential evaluation service to determine if the applicant's course work is equivalent to that required of an applicant from a board approved training program.

#### 3. Add Section 1399.434

The Board proposes to add Section 1399.434 to comply with Business and Professions Code Section 4939(b). The proposed regulation will increase the number of curriculum hours a student is required to complete from a board approved acupuncture school. The proposed regulation requires 2,050 hours of didactic instruction and 950 hours of clinical instruction for a total of 3,000 hours.

The proposed regulation further breaks down the 3,000 curriculum hours to seven didactic categories in addition to clinical practice. These didactic categories were identified through an occupational analysis and a Competencies and Outcomes Task Force.

#### 4. Add Section 1399.435

The Board proposes to add Section 1399.435 which requires satisfactory completion of at least two academic years of education at the baccalaureate level that is appropriate preparation for graduate level work into the professional program.

#### 5. Amend Section 1399.436

The Board proposes to amend Section 1399.436 to clarify that the curriculum outlined in this section applies to any student who enrolls in an approved educational training program on or before December 31, 2004.

### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Cost or Savings to State Agencies Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Costs to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Board has made an initial determination that this regulatory action would have insignificant statewide adverse economic impact directly affecting California businesses (i.e., acupuncture schools), including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses: The Board has determined that this regulatory proposal should not

have any impact on the creation or elimination of jobs or business or the expansion of business in the State of California.

Cost Impact on Representative Private Person or Businesses: In the Economic and Fiscal Impact Statement on this regulatory proposal, the Board has identified an average increase of \$0 to \$4,000 per student and has demonstrated the estimate within the proposal. However, the economic impact on the students is difficult to measure when compared to the educational value gained, versus the cost of the education.

Effects on Housing Costs: None

#### **EFFECT ON SMALL BUSINESS**

The Board has determined that the proposed regulations may have an affect on small businesses (i.e., acupuncture schools).

#### **CONSIDERATION OF ALTERNATIVES**

In accordance with Government Code section 11346.5, subdivision (a)(13), the Board must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purposes for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

The Board invites any interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

#### **INITIAL STATEMENT OF REASONS AND INFORMATION**

The Acupuncture Board has prepared an initial statement of reasons for the proposed action and has available all the information upon which the proposal is based.

#### **TEXT OF PROPOSAL**

Copies of the exact language of the proposed regulations and of the initial statement of reasons and all the information upon which this proposal is based, may be obtained at the hearing or prior to the hearing upon request by contacting Janelle Wedge, (916) 263-2680 ext. 205, at the Acupuncture Board, 1424 Howe Avenue, Suite 37, Sacramento, California 95825-3233.

#### **AVAILABILITY AND LOCATION OF FINAL STATEMENT OF REASONS AND RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared by making a written request to the contact person named below.

#### **CONTACT PERSON**

Inquiries or comments concerning the proposed administrative action may be addressed to:

Marilyn Nielsen, Executive Officer  
1424 Howe Avenue, Suite 37  
Sacramento, CA 95825-3233  
(916) 263-2680  
FAX: (916) 263-2654  
E-Mail: Marilyn\_Nielsen@dca.ca.gov

The backup contact person is:

Janelle Wedge, Administrative Coordinator  
1424 Howe Avenue, Suite 37  
Sacramento, CA 95825-3233  
(916) 263-2680 ext. 205  
FAX: (916) 263-2654  
E-Mail: Janelle\_Wedge@dca.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to one of the contact persons named above.

Website Access: Materials regarding this proposal can be found at [www.acupuncture.ca.gov](http://www.acupuncture.ca.gov)

### **TITLE 16. BOARD OF ACCOUNTANCY**

NOTICE IS HEREBY GIVEN that the California Board of Accountancy is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at the Embassy Suites, 150 Anza Boulevard, in Burlingame, CA 94010, at 2:00 p.m., on July 25, 2003. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the California Board of Accountancy at its office no later than 5:00 p.m. on July 22, 2003 or must be received by the California Board of Accountancy at the hearing. If submitted at the hearing, it is requested, although not required, that 25 copies be made available for distribution to Board members and staff. The California Board of Accountancy, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as the Contact Person and will be mailed to those persons

who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 5010, 5027, 5092, 5093, and 5095 of the Business and Professions Code and to implement, interpret or make specific Sections 5023, 5026, 5027, 5028, 5051, 5087, 5088, 5092, 5093, and 5095 of the Business and Professions Code, the California Board of Accountancy is considering changes to Division 1 of Title 16 of the California Code of Regulations as follows:

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

##### **1. Amend Sections 12 and 12.5 of Title 16 of the California Code of Regulations.**

Business and Professions Code Section 5010 authorizes the Board to adopt, amend, or repeal such regulations as may be necessary for the orderly administration of the Accountancy Act. Business and Professions Code Section 5092 and 5093 establish the requirements for licensure by the California Board of Accountancy and authorize the Board to adopt regulations as necessary to implement those sections.

Current Section 12 specifies the general experience requirements for licensure under Business and Professions Code Sections 5092 and 5093, and current Section 12.5 specifies the attest experience requirements under Business and Professions Code Section 5095.

This proposal would revise Sections 12 and 12.5 to clarify that the CPA providing services to the applicant's private industry, government agency, or other non-public accounting employer cannot verify the applicant's experience. This proposal would also add a definition of what it means to supervise an applicant's experience. The objective of this proposal is to clarify the requirements for supervision and verification of a licensure applicant's experience.

##### **2. Amend Sections 87, 87.1, and 90 of Title 16 of the California Code of Regulations.**

Business and Professions Code Section 5026 mandates continuing education for licensees of the California Board of Accountancy and Section 5027 requires the Board to adopt regulations specifying continuing education requirements.

Current Section 87 specifies basic continuing education requirements. Current Section 87.1 specifies requirements for conversion to active status prior to renewal. Current Section 90 specifies exceptions and extensions related to continuing education requirements.

This proposal would amend Section 87 to add a requirement that licensees who do accounting and auditing, including government audits, complete eight hours of continuing education in detecting fraud affecting financial statements or reporting on financial statements. This proposal also makes a comparable change to the requirements for conversion to active status prior to renewal in current Section 87.1. In addition, a provision is added to Section 90 to provide for an extension related to fraud detection continuing education. This extension is comparable to the extension in current Section 90 related to accounting and auditing and governmental audit continuing education.

The objective of this proposal is to better prepare licensees to detect fraudulent activities during the course of the audit.

#### FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None.

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None.

Business Impact: The California Board of Accountancy has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

#### AND

The following studies were relied upon in making that determination: None.

Impact on Jobs/New Businesses: The California Board of Accountancy has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The California Board of Accountancy is not aware of any significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

#### EFFECT ON SMALL BUSINESS

The California Board of Accountancy has determined that the proposed regulations would affect small businesses.



#### CONSIDERATION OF ALTERNATIVES

The California Board of Accountancy must determine that no reasonable alternative which it considered or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The California Board of Accountancy has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the California Board of Accountancy at 2000 Evergreen Street, Suite 250, Sacramento, California 95815.

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the web site listed below.

#### CONTACT PERSON

Inquiries or comments concerning the proposed administrative action may be addressed to:

Name: Aronna Granick  
Address: California Board of Accountancy  
2000 Evergreen Street, Suite 250  
Sacramento, CA 95815  
Telephone No.: (916) 263-3788  
Fax No.: (916) 263-3675  
E-Mail Address: regcomment603@cba.ca.gov

The backup contact person is:

Name: Mary Crocker  
Address: California Board of Accountancy  
2000 Evergreen Street, Suite 250  
Sacramento, CA 95815

Telephone No.: (916) 263-3940

Fax No.: (916) 263-3675

E-Mail Address: regcomment603@cba.ca.gov

Inquiries concerning the substance of the proposed regulations may be directed to Aronna Granick at (916) 263-3788.

Web site Access: Materials regarding this proposal can be found at [www.dca.ca.gov/cba](http://www.dca.ca.gov/cba).

### TITLE 16. STRUCTURAL PEST CONTROL BOARD

NOTICE IS HEREBY GIVEN that the Structural Pest Control Board is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at Department of Consumer Affairs Hearing Room, 400 "R" Street, Sacramento, California, at 9:00, a.m., on July 18, 2003. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Structural Pest Control Board at its office not later than 5:00 p.m. on July 17, 2003, or must be received by the Structural Pest Control at the hearing. The Structural Pest Control Board, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

#### AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 8525 of the Business and Professions Code, and to implement, interpret or make specific Sections 8505.5, 8505.7, 8505.13, 8505.15, 8505.16, 8516, 8517, 8518, 8519, 8593, 8614, 8615, 8620, 8642, 8643, 8644, 8646, 8647, 8652 of said Code, the Structural Pest Control Board is considering changes to Division 19 of Title 16 of the California Code of Regulations as follows:

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

##### 1. Adopt 1923- Consumer Complaint Disclosure.

The Board is proposing to adopt into regulation specific language relating to consumer complaint disclosure.



2. Amend 1953- Approval of Activities, Form Number 43M-18.

The form was revised June 2002 to meet the standard language of the California Code of Regulations regarding continuing education providers, however, the new revised form was omitted.

3. Amend 1970- Standards and Record Requirements.

Registered companies are currently required to maintain a fumigation log for each fumigation job performed. The log contains information including the name and address of a guard and the date and hour the police department was notified of the fumigation, where required by local ordinance.

The Board is proposing to amend section 1970 to delete the reporting requirement of the name and address of the guard, and the date and hour the police department was notified of the fumigation, because there is no law that requires a pest control company to hire guards or to notify the police department prior to fumigation.

4. Amend 1983 (j)—Handling, Use and Storage of Pesticides

The Board is proposing to include language regarding the removal of termite bait stations when a contract for service is terminated.

5. Amend 1996.1—Inspection and Completion Tags

Current regulations define reporting and posting requirements for inspection and completion tags. The Board is proposing to amend the language to include requirements to post information regarding other method(s) of treatment other than chemicals.

6. Adopt 1996.3 Requirements for Reporting Property Addresses

Senate Bill 1307 (Chapter No. 983) amended sections of the Business and Professions Code to eliminate the requirement for registered companies to file inspection reports and notices of work completed with the Structural Pest Control Board. The bill created a requirement for registered companies to report and file with the Board addresses of properties inspected and the addresses of properties upon which work is completed.

This regulatory proposal requires structural pest control companies to file the address of properties inspected and the addresses of properties upon which work has been completed. This proposal would also specify the penalty for violation of the reporting requirements.

#### **FISCAL IMPACT ESTIMATES**

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None

Local Mandate: None

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None

Business Impact: The Structural Pest Control Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Impact on Jobs/New Businesses: The Structural Pest Control Board has determined that this regulatory proposal will not have any impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business: The Structural Pest Control Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

#### **EFFECT ON SMALL BUSINESS**

Section 1923 will have no effect on small businesses because this adoption puts into regulation the Board's complaint disclosure policy.

Section 1953 will have no effect on small businesses because this revised form is already widely used by providers of continuing education.

Section 1970 will have no effect on small businesses because pest control companies currently do not hire security guards nor do companies notify police departments of an upcoming fumigation.

Section 1983 will have an effect on small businesses because pest control companies will be required to send licensed professions to properties to remove pesticides from bait stations once a contract for services has been terminated.

Section 1996.1 will have no effect on small businesses because inspection and completion tags are already required to be posted and chemicals used must be listed. This proposal only adds language requiring pest control companies to also include information in regards to other methods of treatment and to note those methods.

Section 1996.3 will have no effect on small businesses because the industry has been complying with these requirements since January 1, 2000, when the Business and Professions Code Section was changed with the passage of Senate Bill 1307 (Chapter No. 983.) This proposal clarifies the information to be filed with the Board and adopts the form for requiring this information into regulation.

#### CONSIDERATION OF ALTERNATIVES

The Structural Pest Control Board must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

#### INITIAL STATEMENT OF REASONS AND INFORMATION

The Structural Pest Control Board has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

#### TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Structural Pest Control Board at 1418 Howe Ave. Suite 18, Sacramento, California 95825.

#### AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below **or by accessing the website listed below.**

#### CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Delores Coleman  
Address: 1418 Howe Avenue, Suite 18  
Sacramento, CA 95825  
Telephone No.: 916-561-8700  
Fax No.: 916-263-2469  
E-Mail Address: Delores\_Coleman@dca.ca.gov  
The backup contact person is:  
Name: Susan Saylor  
Address: 1418 Howe Avenue, Suite 18  
Sacramento, CA 95825  
Telephone No.: 916-561-8700  
Fax No.: 916-263-2469  
E-Mail Address: Susan\_Saylor@dca.ca.gov

Website Access: Materials regarding this proposal can be found at [www.pestboard.ca.gov](http://www.pestboard.ca.gov)

## TITLE 22. DEPARTMENT OF SOCIAL SERVICES

#### ITEM # 2 Community Care Facilities— Anti-Discrimination Regulations ORD #0303-06

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held July 16, 2003, as follows:

July 16, 2003  
Office Building # 9  
744 P St. Auditorium  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on July 16, 2003.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

#### CONTACT

Anthony J. Velasquez, Chief  
Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 7-192  
Sacramento, California 95814  
TELEPHONE: (916) 657-2586  
FACSIMILE: (916) 654-3286  
E-MAIL: ord@dss.ca.gov

#### CHAPTERS

Title 22, Division 6, Chapter 1 (General Licensing Requirements), Section 80017 (Applicant Qualifications); Chapter 8 (Residential Care Facilities for the Elderly), Section 87118 (Nondiscrimination); Chapter 8.5 (Residential Care Facilities for the Chronically Ill), Section 87817 (Applicant Qualifications); Chapter 8.8 (Foster Family Agencies), Section 88030 (Identification of Certified Family Homes); Chapter 9 (Adoption Agencies), Section 89002 (Nondiscrimination); and Chapter 9.5 (Foster Family Homes), Section 89317 (Applicant Qualifications); and Title 22, Division 12, Chapter 1 (Child Care Center), Section 101168 (Applicant Qualifications); and Chapter 3 (Family Child Care Homes), Section 102368 (License).

#### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current regulations that govern community care facilities are inconsistent in providing anti-discrimination protections for applicants seeking licensure or certification. The proposed amended regulations provide consistent anti-discrimination policy for applicants by conforming to existing anti-discrimination laws.

#### COST ESTIMATE

1. Costs or Savings to State Agencies: None
2. Costs to Local Agencies or School Districts: None
3. Nondiscretionary Costs or Savings to Local Agencies: N/A
4. Federal Funding to State Agencies: None

#### LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in these regulations which require state reimbursement under Section 17500 et seq. of the Government Code.

#### STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there is no impact on small businesses as a result of filing these regulations.

#### ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

#### STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Sections 1530, 1568.072, 1569.30, and 1596.81, Health and Safety Code. Subject regulations implement and make specific Sections 1501, 1508, 1530, and 1531, Health and Safety Code; and Section 51, Civil Code.

#### CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person: Anthony J. Velasquez  
(916) 657-2586  
Backup: Everardo Vaca  
(916) 657-2586

## TITLE MPP. DEPARTMENT OF SOCIAL SERVICES

ITEM # 1 Restaurant Meals for the Homeless,  
Elderly, and Disabled  
ORD #0802-21

CDSS hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held July 16, 2003, as follows:

July 16, 2003  
Office Building # 9  
744 P St. Auditorium  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The Department will adjourn the hearing immediately following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments relating to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on July 16, 2003.

CDSS, upon its own motion or at the instance of any interested party, may adopt the proposals substantially as described or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period, and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at <http://www.dss.cahwnet.gov/ord>. Additionally, all the information which the Department considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading/perusal at the address listed below.

Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below.

### CONTACT

Anthony J. Velasquez, Chief  
Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 7-192  
Sacramento, California 95814  
TELEPHONE: (916) 657-2586  
FACSIMILE: (916) 654-3286  
E-MAIL: [ord@dss.ca.gov](mailto:ord@dss.ca.gov)

### CHAPTERS

Manual of Policies and Procedures, Division 63 (Food Stamp Regulations), Chapter 63-100 (General Provisions), Section 63-102 (Definitions) and Chapter 63-500 (Eligibility Determinations), Section 63-504 (Household Certification)

### INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

These regulations implement and make specific 7 CFR 272.2, 7 CFR 274.10, and 7 CFR 278. Currently in California food stamps cannot be used to purchase hot foods prepared for immediate consumption. Homeless recipients may use food stamps to purchase prepared meals from meal providers for the homeless. Federal regulation 7 CFR 271.2 defines seniors, disabled members, their spouses, and private establishments that contract to offer meals at concessional prices. Regulations at 7 CFR 274.10 define identification cards and authorized meal purchases for eligible households of seniors, disabled and homeless people. Regulations at 7 CFR 278 define procedures for redeeming coupons including private homeless meals providers and specify the option to implement a contract between counties and individual restaurants that are willing to provide reduced price meals to recipients using food stamp benefits.

Proposed regulations 63-102 and 63-504 would enact these federal regulations as county options to allow eligible homeless, elderly and disabled people greater independence and lessen the demand placed on community resources such as soup kitchens. Participating restaurants could increase revenues.

### COST ESTIMATE

1. Costs or Savings to State Agencies: Insignificant cost impact.
2. Costs to Local Agencies or School Districts: None.
3. Nondiscretionary Costs or Savings to Local Agencies: Insignificant cost impact.
4. Federal Funding to State Agencies: Insignificant cost impact.



#### LOCAL MANDATE STATEMENT

These regulations do not impose a mandate on local agencies or school districts. There are no state-mandated local costs in this order that require reimbursement under the laws of California.

#### STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

CDSS is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

#### SMALL BUSINESS IMPACT STATEMENT

CDSS has determined that there could be an impact on small businesses as a result of filing these regulations, but only if the small businesses opt to participate.

#### ASSESSMENT OF JOB CREATION OR ELIMINATION

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

#### STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

#### STATEMENT OF ALTERNATIVES CONSIDERED

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

#### AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Welfare and Institutions Code Sections 10553, 10554, and 18904. Subject regulations implement and make specific 7 CFR 271.2, 7 CFR 274.10, 7 CFR 274.12, and 7 CFR 278.1.

#### CDSS REPRESENTATIVE REGARDING RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person: Anthony J. Velasquez  
(916) 657-2586

Backup: Maureen M. Miyamura  
(916) 657-2586

### GENERAL PUBLIC INTEREST

#### DEPARTMENT OF FISH AND GAME

#### CONSISTENCY DETERMINATION

Fish and Game Code Section 2080.1

CESA NO. 2080-2003-008-06

Project: Routine Highway Maintenance I-15  
Between Post Mile 74.9 and 124.0

Location: San Bernardino County

Notifier: California Department of Transportation

#### BACKGROUND

On September 24, 1994, the U.S. Fish and Wildlife Service ("Service") issued Biological Opinion No. 1-8-94-F-40 for Routine Highway Maintenance Activities in Riverside and San Bernardino Counties, describing the project actions and setting forth measures to mitigate impacts to the desert tortoise (*Gopherus agassizii*) and its habitat. On April 8, 2003, the Director of the Department of Fish and Game ("Department") received a request from Nathaniel Pickett, Office Chief, Environmental Biological Studies and Permits, California Department of Transportation (Caltrans), seeking a determination pursuant to Fish and Game Code section 2080.1 that the federal biological opinion is consistent with the California Endangered Species Act ("CESA," Fish and Game Code section 2050 *et seq.*) as to specific maintenance and improvements on Interstate 15.

Caltrans proposes to cold-plane the existing travel way and shoulders; place asphalt concrete dikes, raise drainage inlets; remove and replace AC spillways; and repair or replace existing drainage facilities at various locations where necessary. In addition, Caltrans proposes to upgrade electrical lighting at the interchanges, which will include relocating light poles, trenching, and boring beneath the freeway. Impacts to tortoise habitat will be less than one acre.

#### DETERMINATIONS

After reviewing the above-referenced biological opinion, the Department has determined that the Federal Biological Opinion No. 1-8-94-F-40 is consistent with CESA as to the proposed work on

Interstate 15 because the project and measures described in that opinion meet the conditions set forth in Fish and Game Code Section 2081(b) and (c) for authorization of incidental take of species protected under CESA. The biological opinion's measures to mitigate project impacts to the desert tortoise include, but are not limited to: 1) Caltrans acquired land and deeded it to the Department at a ratio of 1:1 with enhancement and endowment fees to offset impacts to desert tortoise; 2) a desert tortoise education program shall be presented to all personnel who will be on-site; 3) on-site biological supervision and monitoring conducted by a biologist to minimize take of desert tortoises during all project-related activities; 4) a preconstruction survey will be conducted; 5) all handling of desert tortoises and their eggs shall be conducted by an authorized biologist in accordance with the *Guidelines for Handling Desert Tortoises During Construction Projects* (DTC 1994, revised 1999).

This determination is limited to consistency of this biological opinion as applied to the described actions on Interstate 15, and does not cover other activities that fall under the 1994 consultation. Separate determinations or take authorizations must be obtained for such future activities that may result in take of state-listed species. Pursuant to Section 2080.1 of the Fish and Game Code, with this determination, Caltrans, will not need to obtain authorization pursuant to CESA for take of the desert tortoise in carrying out the project, provided the proposed project is constructed, operated, and maintained as it is described in the biological opinion. A new consistency determination or a CESA incidental take authorization must be obtained from the Department if the project as described in the biological opinion, including mitigation or conservation requirements set forth in the biological opinion, is changed after issuance of that opinion by the Service.

## DEPARTMENT OF FISH AND GAME

### Public Interest Notice

#### CESA CONSISTENCY DETERMINATION FOR SR 78/Las Posas Interchange Project, San Diego County

The Department of Fish and Game ("Department") received notice on May 19, 2003 that the City of San Marcos proposes to rely on consultations between federal agencies to carry out a project that may adversely affect a species protected by the California

Endangered Species Act ("CESA"). The project consists of the construction, operation, and maintenance of a diamond configuration interchange at State Route 78 and Las Posas Road in San Diego County, California. The project will impact approximately 40 acres of native and non-native habitats, on which the thread-leaved brodiaea occurs.

The U.S. Fish and Wildlife Service, on April 29, 2003 issued to the Federal Highway Administration (FHWA), a no jeopardy federal biological opinion (FWS-SDG-2323.3) which considers the federally threatened and state endangered thread-leaved brodiaea (*Brodiaea filifolia*) and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, the City of San Marcos is requesting a determination on whether the federal biological opinion (FWS-SDG-2323.3) is consistent with CESA. The consistency determination is requested for the thread-leaved brodiaea which is both federally and State listed.

If the Department determines that the federal biological opinion is consistent with CESA, the City of San Marcos will not be required to obtain an incidental take permit under CESA for the proposed project.

## DEPARTMENT OF FISH AND GAME

### Public Interest Notice

#### CESA CONSISTENCY DETERMINATION FOR State Water Project Delta Facility Increased Diversions Project Contra Costa County

The Department of Fish and Game ("Department") received notice on May 1, 2003 that the California Department of Water Resources ("DWR") proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act ("CESA"). This project consists of increasing the maximum allowable daily diversion rate into Clifton Court Forebay by 500 cfs/day during the months of July, August, and September. The project has been previously approved by the Department; this notification seeks approval to extend the project through 2004.

The National Marine Fisheries Service issued to the Federal Bureau of Reclamation (BOR), a no jeopardy federal biological opinion (SWR-99-SA-00-1186:BFO) which considers the Federally and State endangered Sacramento River winter-run Chinook Salmon (*Oncorhynchus tshawytscha*) and the Federally and State threatened Central Valley spring-run Chinook Salmon (*Oncorhynchus tshawytscha*), and authorizes incidental take. The U.S. Fish

and Wildlife Service issued to BOR a no jeopardy federal biological opinion (1-1-94-F-70) which considers the Federally and State threatened delta smelt (*Hypomesus transpacificus*), and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, DWR is requesting a determination on whether the federal biological opinions SWR-99-SA-00-1186:BFO and 1-1-94F-70 are consistent with CESA.

If the Department determines that the federal biological opinions are consistent with CESA, DWR will not be required to obtain an incidental take permit under CESA for the proposed project.

## FISH AND GAME COMMISSION

### NOTICE OF PROPOSED CHANGES IN REGULATIONS

(Continuation of California Notice Register 2003,  
No. 12-Z,  
and Meetings of December 20, 2002,  
April 4, 2003,  
and May 8, 2003.)

**NOTE:** See Updated Informative Digest changes shown in **bold face** type.

**NOTICE IS HEREBY GIVEN** that the Fish and Game Commission (Commission), pursuant to the authority vested by sections 200, 202, 205, 7071, 8587.1 and 8588 of the Fish and Game Code and to implement, interpret or make specific sections 7056, 7071, 8585.5, 8587 and 8587.1 of said Code, proposes to amend sections 52.10, 150.06, and 150.16, Title 14, California Code of Regulations, relating to nearshore regional total allowable catches, trip limits and weekday closures.

### UPDATED INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The proposed actions being considered by the Commission would institute three management changes that implement policy directives contained within the Commission approved Nearshore Fishery Management Plan. These include the following additions or changes to existing regulations:

- **Total Allowable Catch (TAC):** establishing regional Total Allowable Catch (TAC) levels to limit take within discrete geographic areas for cabezon, greenlings and sheephead (CGS)(Item 1, Option 1A and 1 B below), or maintain statewide TACs (Item 1, Options 2A and 2B below), and re-apportion the existing allocation of these resources between sport and commercial fisheries;

- **CGS Trip Limits/Weekday Closure:** instituting cumulative trip limits to spread allowable commercial catches of CGS through a longer fishing season (Item 2 below) and/or modifying existing weekday closures for the cabezon and greenling commercial fisheries (Item 3 below);
- **Federal Trip Limits for Individuals:** establishing a requirement that cumulative trip limit values noticed in the Federal Register for shallow and deeper nearshore rockfish and California scorpionfish would apply to individual California commercial licensees in order to slow catch rates. The federally-defined trip limits which are vessel-based would also continue to apply (Item 4 below).

Existing regulations have established statewide harvest limits (in pounds) for cabezon, greenlings, and sheephead and identify how that poundage is allocated to the recreational and commercial fishery. Modification to these regulations are proposed in item 1 below.

#### Item 1, Total Allowable Catch (TAC)

**Item 1, Option 1A:** would establish four commercial TACs (one per region) and one statewide recreational TAC based on the currently used allowable catch ratios between sport and commercial fisheries established in Section 52.10, Title 14, CCR.

The total statewide allowable catch of cabezon would be 194,100 pounds, allocated as follows:

	Commercial Fishery	Recreational Fishery
North Coast Region	8,000 pounds	91,600 pounds
North-Central Coast Region	20,100 pounds	
South-Central Coast Region	61,700 pounds	
South Coast Region	12,700 pounds	

The total statewide allowable catch of greenlings would be 37,800 pounds, allocated as follows:

	Commercial Fishery	Recreational Fishery
North Coast Region	1,800 pounds	24,900 pounds
North-Central Coast Region	5,600 pounds	
South-Central Coast Region	5,300 pounds	
South Coast Region	200 or [0-200] pounds	

The total statewide allowable catch of sheephead would be 205,600 pounds, allocated as follows:

	Commercial Fishery	Recreational Fishery
North Coast Region	0 pounds	124,500 pounds
North-Central Coast Region	100 or [0-100] pounds	
South-Central Coast Region	1,500 pounds	
South Coast Region	79,500 pounds	

**Item 1, Option 1B:** would establish four commercial TACs (one per region) and one statewide recreational TAC based on the historical ratio of catches during 1983-1989 and 1993-1999.



The total statewide allowable catch of cabezon would be 194,100 pounds, allocated as follows:

	Commercial Fishery	Recreational Fishery
North Coast Region	5,500 pounds	118,300 pounds
North-Central Coast Region	16,100 pounds	
South-Central Coast Region	49,200 pounds	
South Coast Region	5,000 pounds	

The total statewide allowable catch of greenlings would be 37,700 pounds, allocated as follows:

	Commercial Fishery	Recreational Fishery
North Coast Region	1,300 pounds	34,200 pounds
North-Central Coast Region	1,100 pounds	
South-Central Coast Region	1000 pounds	
South Coast Region	100 or [0-100] pounds	

The total statewide allowable catch of sheephead would be ~~205,600~~ 205,700 pounds, allocated as follows:

	Commercial Fishery	Recreational Fishery
North Coast Region	0 pounds	<del>126,100</del> <u>130,300</u> pounds
North-Central Coast Region	100 or [0-100] pounds	
South-Central Coast Region	<del>2,100</del> <u>2,200</u> pounds	
South Coast Region	<del>77,300</del> <u>73,100</u> pounds	

**Item 1, Option 2A:** would maintain the status-quo of one statewide commercial TAC and one statewide recreational TAC based on the currently used allowable catch ratios between sport and commercial fisheries established in Section 52.10, Title 14, CCR, but updates the values to reflect improvements in analysis of catch data.

- The total statewide allowable catch of cabezon would be 194,000 pounds, allocated 102,400 pounds to the commercial fishery and 91,600 pounds to the recreational fishery.
- The total statewide allowable catch of greenlings would be 37,600 pounds, allocated 12,700 pounds to the commercial fishery and 24,900 pounds to the recreational fishery.
- The total statewide allowable catch of sheephead would be 205,500 pounds, with 81,000 pounds allocated to the commercial fishery and 124,500 pounds to the recreational fishery.

**Item 1, Option 2B:** would maintain the status-quo of one statewide commercial TAC and one statewide recreational TAC based on the historical ratio of catches during 1983-1989 and 1993-1999, but updates the values to reflect improvements in analysis of catch data.

- The total statewide allowable catch of cabezon would be 193,900 pounds, with 75,600 pounds

allocated to the commercial fishery and 118,300 pounds to the recreational fishery.

- The total statewide allowable catch of greenlings would be 37,600 pounds, with 3,400 pounds allocated to the commercial fishery and 34,200 pounds to the recreational fishery.
- The statewide allowable catch of sheephead would be 205,500 pounds, with ~~79,400~~ 75,200 pounds allocated to the commercial fishery and ~~126,100~~ 130,300 pounds to the recreational fishery.

**Minor revisions to the proposed allocation values for California sheephead originally noticed in Item 1 have been modified using underline/strikeout format above. Public comment concerning historical landings data used to calculate total allowable catches and allocations led to closer scrutiny of existing data. Based on that review, the originally proposed changes to the allocations have now been refined, using the best data available at this time.**

Existing emergency regulations which will expire May 1, 2003 establish a two-month cumulative trip limit for the commercial fishery for each species in the CGS complex for the January through February 2003 time period. Additional regulations are proposed in item 2 below.

#### Item 2, CGS Trip Limits

**Item 2, Option 1:** would establish commercial trip limits that are the same statewide for each 2-month period that the fishery is open at volumes selected for each species from the range of values provided.

- (A) Cabezon: Not more than [200-2,000] pounds per individual per two-month limit period
- (B) Sheephead: Not more than [200-2,000] pounds per individual per two-month limit period
- (C) Greenlings: Not more than [25-400] pounds per individual per two-month limit period

**Item 2, Option 2:** would establish commercial trip limits that are the same statewide at a set value per landing period with catch volume equivalent to a multiplier of federal trip limits for shallow nearshore rockfish.

- (A) Cabezon: The pounds per individual per two-month limit period is equal to the federal trip limit for shallow nearshore rockfish for waters south of 40 degrees, 10 minutes N. latitude.
- (B) Sheephead: The pounds per individual per two-month limit period is equal to two times the federal trip limit for shallow nearshore rockfish for waters south of 40 degrees, 10 minutes N. latitude.
- (C) Greenlings: The pounds per individual per two-month limit period is equal to one-quarter of the



federal trip limit for shallow nearshore rockfish for waters south of 40 degrees, 10 minutes N. latitude.

**Item 2, Option 3:** would establish commercial trip limits that are the same statewide but allow catch volume to differ between monthly periods, based on constituent input, from the range of values below:

	Cabazon	Sheephead	Greenlings
January–February	[0–8,000] pounds	[0–8,000] pounds	[0–1,000] pounds
March–April	0 pounds	0 pounds	0 pounds
May–June	[0–8,000] pounds	[0–8,000] pounds	[0–1,000] pounds
July–August	[0–8,000] pounds	[0–8,000] pounds	[0–1,000] pounds
September–October	[0–8,000] pounds	[0–8,000] pounds	[0–1,000] pounds
November–December	[0–8,000] pounds	[0–8,000] pounds	[0–1,000] pounds

**Item 2, Option 4:** would establish trip limits which differ for each of the four management regions throughout the state, and differ between each landing period for the periods the fishery is open, which allows for trip limits to be set in accordance with regional TACs (coupled with Option 1A and 1B above), and based on constituent input. Trip limits ranging from 0–8000 pounds of cabazon, dependent on region and two-month limit period, are proposed. Trip limits ranging from 0–8000 pounds of sheephead, dependent on region and two-month limit period, are proposed. Trip limits ranging from 0–500 pounds of greenlings, dependent on region and two-month limit period, are proposed.

Existing regulations addressed under item 3 below established a prohibition on the commercial take of cabazon, kelp greenling, and rock greenling from Thursday through Sunday, inclusive.

### Item 3, Weekday Closures

**Item 3, Option 1:** would eliminate the provision which prohibits the commercial take of cabazon, kelp greenling, and rock greenling from Thursday through Sunday;

**Item 3, Option 2:** would change the language of the regulation to prohibit possession as well as take of these species Thursday through Sunday; and/or

**Item 3, Option 3:** would change the regulation to include prohibiting the commercial take and possession of all nearshore fish stocks as defined in Section 1.90 from Thursday through Sunday.

No regulations addressed under item 4 below exist. New regulations are proposed in item 4 below.

### Item 4, Federal Limits for Individuals

**Item 4:** would establish a requirement that cumulative trip limit values noticed in the Federal Register for shallow and deeper nearshore rockfish and for California scorpionfish would apply to individual

California commercial licensees in order to slow catch rates. The federally defined trip limits which are vessel-based would also continue to apply.

**NOTICE IS ALSO GIVEN** that any person interested may present statements, orally or in writing, relevant to this action at a hearing to be held in the Mammoth Lakes Community Center, 1000 Forest Trail, Mammoth Lakes, California, on Friday, June 20, 2003 at 8:30 a.m., or as soon thereafter as the matter may be heard. It is requested, but not required, that written comments be submitted on or before June 16, 2003 at the address given below, or by fax at (916) 653-5040, or by e-mail to FGC@dfg.ca.gov, but must be received no later than June 20, 2003, at the hearing in Mammoth Lakes, CA. E-mail comments must include the true name and mailing address of the commentor.

The regulations as proposed in ~~strikeout~~-underline format, as well as an initial statement of reasons, including environmental considerations and all information upon which the proposal is based (rulemaking file), are on file and available for public review from the agency representative, John M. Duffy, Assistant Executive Director, Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244-2090, phone (916) 653-4899. Please direct inquiries to John M. Duffy or Sherrie Koell at the preceding address or phone number. Fred Wendell, Nearshore Ecosystem Coordinator, Department of Fish and Game, phone (805) 772-1714, has been designated to respond to questions on the substance of the proposed regulations. Copies of the Initial Statement of Reasons, including the regulatory language, may be obtained from the address above. Notice of the proposed action shall be posted on the Fish and Game Commission website at [http://www.dfg.ca.gov/fg\\_comm/](http://www.dfg.ca.gov/fg_comm/).

### AVAILABILITY OF MODIFIED TEXT

If the regulations adopted by the Commission differ from but are sufficiently related to the action proposed, they will be available to the public for at least 15 days prior to the date of adoption. Any person interested may obtain a copy of said regulations prior to the date of adoption by contacting the agency representative named herein.

If the regulatory proposal is adopted, the final statement of reasons may be obtained from the address above when it has been received from agency program staff.

### IMPACT OF REGULATORY ACTION

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Business, including the Ability of California Businesses to Compete with Businesses in Other States:

The Commission has made an initial determination that the amendment of these regulations may have a significant statewide adverse economic impact on approximately 184 businesses, primarily nearshore commercial fishermen but including some fish processors, distributors, baitshops, markets and sportfishing services providers, but not on the ability of California businesses to compete with businesses in other states. The Commission has considered proposed alternatives that would lessen any adverse economic impact on business and invites you to submit alternative proposals. Submissions may include the following considerations:

- (i) the establishment of differing compliance or reporting requirements or timetables which take into account the resources available to businesses;
  - (ii) consolidation or simplification of compliance and reporting requirements for businesses;
  - (iii) the use of performance standards rather than prescriptive standards; or
  - (iv) exemption or partial exemption from the regulatory requirements for business.
- (b) Impact on the Creation or Elimination of Jobs within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:
- Each of the three nearshore fishery management changes being considered would have different impacts, ranging from slightly increased benefits to nominal losses in production, depending on which option is selected. None of the options would create new direct costs or reporting requirements to individuals or businesses. Contact the Agency representative named herein to receive a complete analysis of the impacts.
- (c) Cost Impacts on a Representative Private Person or Business:
- The Commission is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Contact the Agency representative named herein to receive a complete analysis of the impacts.
- (d) Costs or Savings to State Agencies or Costs/ Savings in Federal funding to the State: None.
- (e) Nondiscretionary Costs/Savings to Local Agencies: None.

- (f) Programs Mandated on Local Agencies or School Districts: None.
- (g) Costs Imposed on any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4: None.
- (h) Effect on Housing Costs: None.

#### **EFFECT ON SMALL BUSINESS**

It has been determined that the adoption of these regulations may affect small business.

#### **CONSIDERATION OF ALTERNATIVES**

The Commission must determine that no reasonable alternative considered by the Commission, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

### **DISAPPROVAL DECISIONS**

#### **DECISIONS OF DISAPPROVAL OF REGULATORY ACTIONS**

Printed below are the summaries of Office of Administrative Law disapproval decisions. Disapproval decisions are available at [www.oal.ca.gov](http://www.oal.ca.gov). You may also request a copy of a decision by contacting the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339, (916) 323-6225—FAX (916) 323-6826. Please request by OAL file number.

#### **STATE OF CALIFORNIA OFFICE OF ADMINISTRATIVE LAW OAL File No. 03-0328-02s (Gov. Code Sec. 11349.3)**

##### **In re:**

**AGENCY: California Apprenticeship Council**

**ACTION: Adopt sections 232.01, 232.02, 232.03, 232.04, 232.05, 232.06, 232.07, 232.08, 232.09, 232.10, 232.11, 232.12, 232.20, 232.21, 232.22, 232.23, 232.24, 232.25, 232.26, 232.27, 232.28, 232.29, 232.30, 232.31, 232.32, 232.33, 232.34, 232.35, 232.36, 232.37, 232.40, 232.41, 232.42, 232.43, 232.44, 232.45, 232.46, 232.47, 232.48, 232.49, 232.50, 232.51, 232.52, 232.53, 232.60, 232.61, 232.62, 232.63, 232.64, 232.70; repeal section 232 of title 8 of the California Code of Regulations**

## SUMMARY OF RULEMAKING ACTION

This rulemaking action establishes hearing procedures for hearings under Labor Code section 1777.7, which concerns penalties for knowingly violating statutory requirements governing employment of apprentices in public works.

## SUMMARY OF DECISION

On May 12, 2003, the Office of Administrative Law (OAL) disapproved the above-referenced rulemaking action. The reasons for the disapproval are summarized here and explained in detail below.

**A. The Council has failed to cite the statutes which provide authority for the regulations and the statutes which are implemented, interpreted, or made specific by the regulations. To the extent that the regulations duplicate specific statutory provisions in Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code, the regulations fail to satisfy the Nonduplication standard.**

**B. A number of provisions fail to satisfy the clarity standard.**

**C. The STD Form 399 is not signed by the Agency Secretary, and these regulations do not have the concurrence of the Department of Finance.**

**D. Necessity has not been demonstrated for a part of regulation 232.11.**

**E. Miscellaneous problems.**

Date: May 19, 2003

MICHAEL McNAMER  
Senior Counsel

for: Sheila R. Mohan  
Acting Director/Chief Counsel

Original: Henry P. Nunn, III, Chief, DAS  
cc: Julian Standen, Deputy Attorney General

## SUMMARY OF REGULATORY ACTIONS

### REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

## BUREAU OF SECURITY AND INVESTIGATIVE SERVICES

### Clarification of Collateral Recovery Act Fees

The regulatory action sets collateral recovery fees. The fees become effective upon filing on May 15, 2003 pursuant to Government Code section 11343.4, subdivision (c).

Title 16

California Code of Regulations

ADOPT: 642

Filed 05/15/03

Effective 05/15/03

Agency Contact:

Noreene DeKoning (916) 322-7530

## DEPARTMENT OF DEVELOPMENTAL SERVICES

### Anticipated Rate Adjustment

This is the emergency re-adoption of an amendment to the regulation that describes when a program change that could have been planned for will be sufficient to warrant an adjustment in the payment rate for an in-home respite services agency.

Title 17

California Code of Regulations

AMEND: 58420

Filed 05/15/03

Effective 05/15/03

Agency Contact: David J. Judd (916) 654-2257

## DEPARTMENT OF PESTICIDE REGULATION

### Methyl Bromide Field Fumigation

This emergency action repeals and readopts the current emergency regulations on methyl bromide field fumigation in order to preserve the status quo and allow DPR more time before adopting final regulations.

Title 3

California Code of Regulations

ADOPT: 6450, 6450.1, 6450.2, 6450.3, 6784

AMEND: 6000 REPEAL: 6450, 6450.1, 6450.2, 6450.3, 6784

Filed 05/19/03

Effective 05/21/03

Agency Contact:

Linda Irokawa-Otani (916) 445-3991

## DEPARTMENT OF REHABILITATION

### Excluded Services and Other Goods and Services

This certificate of compliance makes permanent the emergency regulations that add the definitions for "construction," "permanent fixture," and "real prop-

erty,” and amend what is allowable as “other goods and services,” to include short-term or emergency financial assistance to an individual.

Title 9

California Code of Regulations

ADOPT: 7149.1 AMEND: 7174

Filed 05/20/03

Effective 05/20/03

Agency Contact: Juanita Loyola (916) 263-8972

**DIVISION OF WORKERS COMPENSATION**

Physicians Reporting; Petitions to Change Physician

This action amends provisions governing the Petition to Change Treating Physician process.

Title 8

California Code of Regulations

AMEND: 9785, 9785.2, 9785.3, 9786, 9787

Filed 05/20/03

Effective 06/19/03

Agency Contact:

George Parisotto (415) 703-4665

**MANAGED RISK MEDICAL**

**INSURANCE BOARD**

AIM Program Improvement Regulations

Insurance Code section 12695, et seq., established the Access for Infants and Mothers (AIM) Program in 1991, to provide health insurance to low and moderate income pregnant women and the infant(s) born during the covered pregnancy. This regulatory action makes explicit that participating health plans are required to provide benefits consistent with the Knox-Keene Health Care Service Plan Act of 1975 (Health and Safety Code sections 1367-1374.16) and to align specific benefit descriptions with Knox-Keene requirements. This regulatory action also makes AIM eligibility determination standards and procedures, and AIM benefit standards, more consistent with the standards in the Healthy Families Program.

Title 10

California Code of Regulations

AMEND: 2699.100, 2699.200, 2699.201,  
2699.202, 2699.205, 2699.206, 2699.207,  
2699.210, 2699.300, 2699.301, 2699.303,  
2699.304, 2699.400

Filed 05/20/03

Effective 05/20/03

Agency Contact:

Donald G. Minnich (916) 327-7978

**STATE TEACHERS RETIREMENT SYSTEM**

Election Members to the Teacher's Retirement Board

The Teachers Retirement System is adopting sections 24000, 24001, 24002, 24003, 24004, 24005, 24006, 24007, 24008, and 24009, title 5, California Code of Regulations pertaining to the election of members to the teachers' retirement board. These

adoptions are exempt from review by the Office of Administrative Law pursuant to Education Code section 22200.5(c).

Title 5

California Code of Regulations

ADOPT: 24000, 24001, 24002, 24003, 24004,  
24005, 24006, 24007, 24008, 24009

Filed 05/15/03

Effective 06/14/03

Agency Contact: Scot Blackledge

**STATE WATER RESOURCES CONTROL BOARD**

This regulatory action establishes the Total Maximum Daily Load (TMDL) for bacteria at Santa Monica Bay beaches.

Title 23

California Code of Regulations

AMEND: 3939

Filed 05/20/03

Effective 05/20/03

Agency Contact: Ling Tseng (916) 341-5558

**YOUTHFUL OFFENDER PAROLE BOARD**

Initial Hearings—Amended Procedures

This emergency rulemaking action amends the procedures for a ward's initial hearing.

Title 15

California Code of Regulations

AMEND: 4941

Filed 05/19/03

Effective 05/19/03

Agency Contact: Connie Erlich (916) 322-9800

**CCR CHANGES FILED WITH THE  
SECRETARY OF STATE  
WITHIN JANUARY 15, 2003  
TO MAY 21, 2003**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

**Title 1**

05/08/03 REPEAL: 121, 122, 123, 124, 125, 125.5,  
126, 127, 128, App. A (Form 1013)

01/21/03 REPEAL: 121, 122, 123, 124, 125, 125.5,  
126, 127, 128, Appendix A



**Title 2**

05/08/03 AMEND: 2970  
 05/07/03 ADOPT: 471.1 AMEND: 470, 470.1, 471, 472, 17502, 17520  
 05/07/03 AMEND: 547.80, 17030, 17111, 17112, 17151 REPEAL: 547.81, 17434  
 05/01/03 AMEND: 1859.61, 1859.105, 1859.106, 1859.141, 1859.142, 1859.145, 1859.147, 1859.148, 1859.150.1, 1859.151, 1859.152, 1859.153  
 04/28/03 AMEND: 1897  
 04/21/03 ADOPT: 1185.02, 1186 AMEND: 1181.1, 1183, 1183.01, 1185, 1185.01, 1185.02, 1185.1, Article 6 title. REPEAL: 1185.2, 1186, 1186.1, 1186.2, 1186.3, 1188.5  
 04/10/03 AMEND: 18313  
 04/09/03 ADOPT: 18550.1 AMEND: 18225.7  
 04/04/03 AMEND: 599.885  
 04/03/03 AMEND: 599.515  
 04/03/03 ADOPT: 23000, 23100, 23100, 23200, 23300  
 04/01/03 AMEND: 52.4  
 03/27/03 ADOPT: 18754  
 03/24/03 AMEND: 321  
 02/28/03 AMEND: 599.931  
 02/27/03 ADOPT: 1859.2, AMEND: 1859.2, 1859.20, 1859.21, 1859.74.2, 1859.74.3, 1859.74.4, 1859.75, 1859.75.1, 1859.78.3, 1859.79, 1859.81.1, 1859.83, 1859.107, 1859.145  
 02/25/03 REPEAL: 18707.3  
 02/24/03 AMEND: 18312  
 02/24/03 ADOPT: 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445  
 02/19/03 AMEND: 1859.79, 1859.79.3, 1859.81.1, 1859.83, 1859.107  
 02/18/03 AMEND: 18704.2  
 02/18/03 AMEND: 18991  
 02/13/03 ADOPT: 1859.160, 1859.161, 1859.162, 1859.162.1, 1859.163, 1859.164, 1859.164.1, 1859.165, 1859.166, 1859.166.1, 1859.167, 1859.168, 1859.169, 1859.170, 1859, 171 AMEND: 1859.2, 1859.51, 1859.103, 1859.106, 1859.145.1  
 02/13/03 AMEND: 1859.77.2  
 02/11/03 AMEND: 1897  
 02/11/03 AMEND: 1555  
 02/06/03 ADOPT: 1859.74.5, 1859.74.6, 1859.81.2, 1859.81.3, 1859.105.2 AMEND: 1859.2, 1859.74, 1859.76, 1859.77.1, 1859.81.1, 1859.90, 1859.103, 1859.104  
 02/06/03 ADOPT: 50  
 02/03/03 ADOPT: 649.23, 649.24, 649.25

02/03/03 AMEND: 649.11  
 01/30/03 ADOPT: 18530.2  
 01/16/03 AMEND: 18700  
 01/16/03 AMEND: 18705.1  
 01/16/03 ADOPT: 18545  
 01/16/03 ADOPT: 1859.71.2, 1859.78.4, 1859.108 AMEND: 1859.50, 1859.70, 1859.72, 1859.73.1, 1859.73.2, 1859.74.1, 1859.75.1, 1859.76, 1859.78.2, 1859.79.3, 1859.81, 1859.81.1, 1859.82, 1859.100, 1859.101, 1859.102, 1859.107  
 01/16/03 AMEND: 18703.4, 18730, 18940.2, 18942.1, 18943

**Title 3**

05/19/03 ADOPT: 6450, 6450.1, 6450.2, 6450.3, 6784 AMEND: 6000 REPEAL: 6450, 6450.1, 6450.2, 6450.3, 6784  
 05/05/03 ADOPT: 1310, 1310.1, 1310.2, 1310.3  
 04/24/03 AMEND: 6000, 6710  
 04/21/03 AMEND: 3417(b)  
 04/21/03 AMEND: 3423(b)  
 04/15/03 AMEND: 3423(b)  
 04/08/03 ADOPT: 760, 760.1, 760.2, 760.3, 760.4, 760.5, 760.6, 760.7, 760.9 REPEAL: 760, 765  
 04/07/03 AMEND: 3417(b)  
 04/03/03 AMEND: 300(c)  
 04/01/03 AMEND: 3417(b)  
 03/26/03 ADOPT: 797  
 03/20/03 AMEND: 3700(c)  
 02/06/03 ADOPT: 3650, 3651, 3652, 3653, 3654, 3655, 3656, 3657, 3658, 3659, 3660, 3661, 3662, 3663, 3663.5  
 02/03/03 AMEND: 3700(c)  
 01/28/03 AMEND: 3417(b)  
 01/27/03 AMEND: 3700(C)  
 01/21/03 ADOPT: 6450, 6450.1, 6450.2, 6450.3, 6784 AMEND: 6000 REPEAL: 6450, 6450.1, 6450.2, 6450.3, 6784

**Title 4**

04/09/03 AMEND: 1467  
 03/06/03 AMEND: 8072, 8074  
 02/13/03 ADOPT: 10151, 10152, 10153, 10154, 10155, 10156, 10157, 10158, 10159, 10160, 10161, 10162  
 01/27/03 ADOPT: 12300, 12301, 12302, 12303, 12304, 12305, 12306, 12307, 12308, 12309, 12310 AMEND: 12300, 12301, 12302, 12303, 12304, 12305, 12306, 12307, 12308, 12309, 12310

**Title 5**

05/15/03 ADOPT: 24000, 24001, 24002, 24003, 24004, 24005, 24006, 24007, 24008, 24009

05/01/03 ADOPT: 1218.5 AMEND: 1200, 1204, 1209, 1211, 1212, 1215, 1216, 1217, 1217.5, 1219, 1219.5, 1220, 1225  
 04/21/03 ADOPT: 11990  
 04/15/03 AMEND: 18106  
 04/14/03 AMEND: 11510, 11512.5(a)(11), 11517 REPEAL: 11510(j)  
 04/07/03 ADOPT: 80020.1  
 04/03/03 ADOPT: 11971, 11972, 11973, 11974, 11975, 11976, 11977, 11978, 11979, 11980  
 03/18/03 AMEND: 20438, 20440  
 03/12/03 ADOPT: 53207  
 02/24/03 AMEND: 18301  
 02/14/03 ADOPT: 54400  
 01/30/03 AMEND: 80043  
 01/29/03 AMEND: 31000, 31001, 31003, 31004, 31005, 31006, 31007  
 01/27/03 ADOPT: 42397, 42397.1, 42397.2, 42397.3, 42397.4, 42397.5, 42397.6, 42397.7, 42397.8, 42397.9, 42397.10, 42397.11  
 01/16/03 ADOPT: 9531, 9532

**Title 8**

05/20/03 AMEND: 9785, 9785.2, 9785.3, 9786, 9787  
 05/07/03 ADOPT: 20400, 20401, 20402, 20403, 20404, 20405, 20406, 20407, 20408, 20450  
 05/01/03 AMEND: 10106.1, 10107.1, 10111.2  
 05/01/03 AMEND: 10122, 10133.15, 10133.16  
 04/09/03 AMEND: 15210  
 04/07/03 AMEND: 15251  
 03/26/03 AMEND: 3279, 3280  
 03/03/03 ADOPT: 17000 REPEAL: 17000  
 02/24/03 AMEND: 451, 527  
 01/30/03 AMEND: 336  
 01/29/03 ADOPT: 10133.16, 10133.17, 10133.18, 10133.19, 10133.20, 10133.21, 10133.22, 10122.1, 10127.3, 10131.2, 10133.10, 10133.11, 10133.12, 10133.13, 10133.14, 10133.15 AMEND: 10122, 10131, 10133, 10133.2 REPEAL: 10133.1  
 01/28/03 AMEND: 1604.5(c)(3), 1604.6(a)  
 01/21/03 ADOPT: 339.9 AMEND: 339.8.1

**Title 9**

05/20/03 ADOPT: 7149.1 AMEND: 7174  
 03/25/03 AMEND: 821  
 02/20/03 AMEND: 9100

**Title 10**

05/20/03 AMEND: 2699.100, 2699.200, 2699.201, 2699.202, 2699.205, 2699.206, 2699.207, 2699.210, 2699.300, 2699.301, 2699.303, 2699.304, 2699.400  
 05/06/03 ADOPT: 2498.6

04/29/03 ADOPT: 2192.1, 2192.2, 2192.3, 2192.4, 2192.5, 2192.6, 2192.7, 2192.8, 2192.9, 2192.10, 2192.11, 2192.12, 2192.13 REPEAL: 01-0905-01E, 02-0129-02 EE, 02-0531-04 EE  
 04/24/03 ADOPT: 2278, 2278.1, 2278.2, 2278.3, 2278.4, 2278.5  
 04/24/03 ADOPT: 2695.85 AMEND: 2695.1, 2695.2, 2695.3, 2695.4, 2695.5, 2695.6, 2695.7, 2695.8, 2695.9, 2695.10, 2695.11, 2695.12, 2695.14  
 04/17/03 AMEND: 5002  
 03/27/03 AMEND: 260.211, 260.211.1  
 03/20/03 ADOPT: 2187.4  
 03/20/03 ADOPT: 2698, 9910, 2698.99.11, 2698.99.12, 2698.99.13  
 03/13/03 ADOPT: 2020, 2021 AMEND: 250.51  
 03/10/03 ADOPT: 2670.1, 2670.2, 2670.3, 2670.4, 2670.5, 2670.6, 2670.7, 2670.8, 2670.9, 2670.10, 2670.11, 2670.12, 2670.13, 2670.14, 2670.17, 2670.18, 2670.19, 2670.20, 2670.21, 2670.22, 2670.23, 2670.24,  
 03/10/03 ADOPT: 2175, 2175.1, 2175.2, 2175.3, 2175.4, 2175.5, 2175.6, 2175.7, 2175.8, 2175.9, 2175.10, 2176, 2176.1 2176.2, 2176.3, 2176.4, 2177, 2177.1, 2177.2, 2177.3, 2177.4, 2177.5, 2177.6, 2177.7, 2177.8., 2177.9, 2177.10, 2177.11, 2177.12, 2177.13, 2177  
 03/06/03 AMEND: 2130.3  
 03/04/03 ADOPT: 260.230, 260.230.1, 260.231.2, 260.231.3, 260.236.1, 260.236.2, 260.237.2 AMEND: 260.231, 260.236, 260.237.1, 260.240, 260.241.2, 260.241.3, 260.241.4, 260.242  
 02/27/03 ADOPT: 5.6182, 5.6183, 30.30, 30.31, 30.40, 30.41, 30.50, 30.51, 30.60, 30.61, 30.70, 30.71, 30.72, 30.73, 30.105, 30.402, 30.406, 30.500, 30.802, 30.1000 AMEND: 30.101, 30.102, 30.103, 30.300, 30.301, 30.302, 30.304, 30.306, 30.401, 30.403, 30.404, 30.  
 02/13/03 AMEND: 3200  
 02/11/03 AMEND: 2646.6 REPEAL: 2646.7, 2646.8, 2646.9, 2646.10, 2646.11  
 01/21/03 AMEND: 2690.1, 2690.2  
 01/16/03 AMEND: 2498.6

**Title 11**

05/05/03 AMEND: 1005  
 04/07/03 AMEND: 1005, 1052, D-2  
 04/03/03 ADOPT: 977.52 AMEND: 977.20, 977.43, 977.44, 977.45, 977.50, 977.51  
 02/06/03 AMEND: 1005, 1070, 1082  
 02/03/03 AMEND: 1081(a)(31), 1081(a)(32)

01/17/03 ADOPT: 3100, 3101, 3102, 3103, 3200,  
3201, 3203, 3204 AMEND: 3000, 3001,  
3002, 3003, 3007, 3008

**Title 13**

05/12/03 ADOPT: 147.00  
05/12/03 ADOPT: 2700, 2701, 2702, 2703, 2704,  
2705, 2706, 2707, 2708, 2709, 2710  
05/07/03 ADOPT: 82.00  
05/06/03 AMEND: 1239  
05/01/03 ADOPT: 2273.5 AMEND: 2260, 2261,  
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04/17/03 AMEND: 115.07  
04/16/03 AMEND: 1956.8  
04/14/03 AMEND: 2412(b)  
03/03/03 ADOPT: 225.00, 225.06, 225.12, 225.15,  
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225.69 AMEND: 225.03, 225.09, 225.18,  
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225.63, 225.72  
02/21/03 AMEND: 110.04  
02/18/03 REPEAL: 260.01, 262.00, 262.05  
02/06/03 AMEND: 55.17  
02/04/03 ADOPT: 551.14, 551.15, 551.16, 551.17  
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04/30/03 AMEND: 6504, 6578.4, 6600.1  
04/30/03 AMEND: 791.7, 870.15, 870.17, 870.19,  
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04/28/03 AMEND: 2930  
04/17/03 AMEND: 11945  
04/15/03 ADOPT: 3704.1  
04/15/03 ADOPT: 1.39, 1.49, 27.83 AMEND:  
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04/14/03 ADOPT: 1.92 AMEND: 671, 671.1  
04/08/03 AMEND: 791.7  
04/07/03 ADOPT: 4970.09 AMEND: 4970.00,  
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4970.18, 4970.19, 4970.20, 4970.21,  
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04/04/03 ADOPT: 17853.0, 17854, 17588.2,  
17855.4, 17857.1, 17859.1, 17863.4,  
17867.5, 17868.5, 18227 AMEND:  
17850, 17852, 17855, 17862, 17862.1,  
17863, 17865, 17866, 17867, 17868.1,  
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17211.3, 17211.4, 17211.5, 17211.6,  
17211.7, 17211.8, 17211.9

04/01/03 AMEND: 2090, 2105, 2420, 2425, 2530,  
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04/01/03 ADOPT: 17225.710, 17225.717,  
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17225.755, 17225.760, 17225.770,  
17225.795, 17225.800, 17225.820,  
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03/10/03 ADOPT: 632 AMEND: 630

03/10/03 ADOPT: 150.05 AMEND: 150, 150.03

03/06/03 AMEND: 18464, 18465

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03/04/03 ADOPT: 15251

03/04/03 ADOPT: 749.2

03/04/03 AMEND: 180.2

02/27/03 ADOPT: 105.5 AMEND: 195

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02/03/03 AMEND: 120.3

01/28/03 ADOPT: 6593, 6593.1, 6593.2, 6593.3,  
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01/21/03 ADOPT: 14120 AMEND: 14101, 14102,  
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3901.9.6, 3901.11.1, 3901.13.1,  
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04/08/03 AMEND: 3025, 3315

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3173.1, 3173.2, 3174, 3175, 3176,  
3176.1, 3176.2, 3176.3, 3176.4, 3177,  
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3173, 3174, 3175, 3176, 3177, 3178,  
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01/21/03 AMEND: 3075.2

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 04/24/03 AMEND: 1320  
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 03/13/03 AMEND: 404  
 03/06/03 AMEND: 1393  
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 03/03/03 AMEND: 1397.12  
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 02/10/03 ADOPT: 30315.10, 30315.20, 30315.22, 30315.23, 30315.24, 30315.33, 30315.34, 30315.35, 30315.36, 30315.50, 30315.51, 30315.52, 30315.60, 30316, 30316.10, 30316.20, 30316.22, 30316.30, 30316.40, 30316.50, 30316.60, 30316.61, 30317, 30317.10, 30317.20, 303  
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04/10/03 ADOPT: 51509

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02/27/03 ADOPT: 51008.1 AMEND: 51104,  
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02/25/03 AMEND: 12705, 12805

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02/19/03 AMEND: 12306

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02/10/03 ADOPT: 69100, 69101, 69102, 69103,  
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01/27/03 AMEND: 51510, 515110.1, 51510.2,  
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